CANADA AND THE INTERNATIONAL LABOUR CODE

Labour Canada

Travail Canada

CANADA AND THE INTERNATIONAL LABOUR CODE

A study of Canadian compliance with International Labour Conventions, and the action required to bring Canada into conformity with them.

International and Provincial Relations,
Labour Canada.
1978

Published under the authority of the Honourable John Munro,

Minister of Labour, Government of Canada

Également disponible en français sous le titre

Le Canada et le Code international du Travail

Minister of Supply and Services Canada 1978

Cat. No. L31-17/1978

ISBN - 0-662-50051-2

ISSN - 0706-3024

Foreword

The present study has developed out of many years of work.

It describes how Canadian labour legislation compares with the standards set out over the years in the form of International Labour Conventions adopted by the Annual Conferences of the International Labour Organization. The study does not include all the Conventions adopted by the Conference since many of these have been revised from time to time or have fallen out of date. In fact, it is estimated that of the 149 Conventions adopted by the Conference up to 1977, about 75 still constitute a valid target for ratification by industrialized countries. Covering as it does these up to date instruments, it is hoped that the study gives a reasonably clear picture of how Canadian legislation measures up to ILO standards.

It is sometimes observed that Canada's record of ratification of ILO instruments is not very high when compared with the record of some other industrialized countries. Up to now, Canada has ratified 26 Conventions, of which 20 may be considered as modern "target" Conventions. In comparison, for example, France has ratified 98, Sweden 58 and the United Kingdom 72.

A distinction must be made between the ratification of Conventions and the implementation of their provisions. The study shows that Canada's record of implementation is good. However, the introduction to the study indicates reasons why, in spite of a considerable degree of implementation, it has not up until now been possible to ratify more Conventions.

Apart from the technical difficulties described in the introduction, there are also instances where Canadian legislation falls short of ILO standards and where it is clear that significant improvements would have to be made in legislation in the various jurisdictions in order to bring Canada into line with the international standard.

Good co-operation exists between the federal and provincial governments in trying to deal with ILO matters. The federal government consults the provinces frequently by correspondence, there is an annual meeting in Ottawa of Deputy Ministers of Labour to deal with ILO questions, and the provinces participate in the annual ILO Conferences and other ILO meetings. The present study has grown out of analyses that have been put before the annual meetings of Deputy Ministers over the past eight years. Its findings have been reviewed by the provincial Departments of Labour.

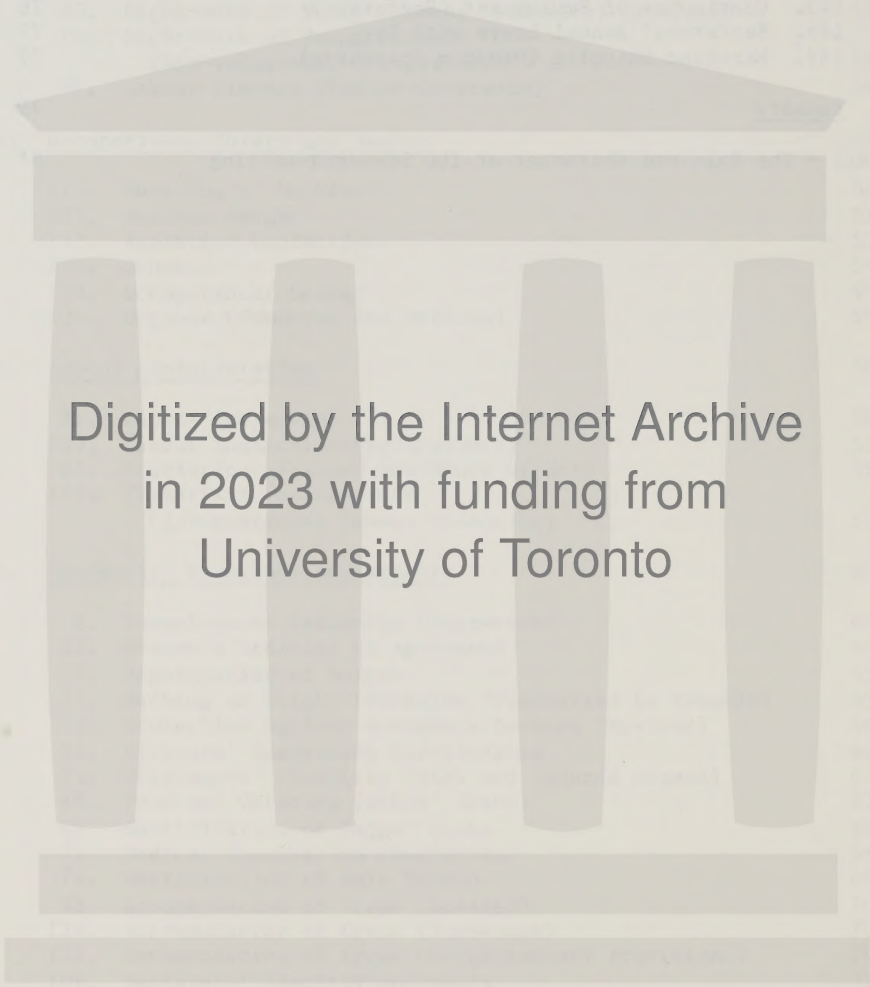
What the study seeks to do is to provide a broad picture rather than a detailed analysis of the degree of Canadian compliance with the ILO instruments. It thus differs from certain other studies produced by the International and Provincial Relations program, for example the 1976 study entitled "Where Canada Stands on the Implementation of ILO Conventions on Occupational Safety and Health." Whereas the latter gives a detailed review of the action necessary in the various Canadian jurisdictions in order to comply fully with ILO Conventions dealing with occupational safety and health, the present study provides an overview without going into specific issues as thoroughly as does the safety study.

For convenience, the study is organized into separate chapters dealing with the different sets of problems the ILO has dealt with over the years. Most of the documentation on which the study is based was prepared by J. Frendo-Azopardi under the direction of J.K. Wanczycki, Director of International Labour Standards, International and Provincial Relations Program. The study was prepared by J.K. Eaton with the co-operation of other branches of Labour Canada, several federal government departments and provincial departments of Labour, and with the research assistance of Sara Greenblatt.

John Mainwaring,
Director-General,
International and
Provincial Relations.

May 1978

Contents



Introduction

Among international agencies, the ILO is unique in its role as an international quasi-legislative body. Other agencies are, like the ILO, involved in collecting and disseminating information, in conducting research and/or in giving technical assistance, in line with their stated objectives. Some of them may play an advisory or even admonitory role on an international scale. But none has developed a body of international quasi-legislation, analogous to the International Labour Code.

This International Labour Code consists of ILO Conventions and Recommendations, covering all aspects of the labour field, which have been adopted at annual conferences of the ILO.[1] Once a Convention is adopted, member States are encouraged to ratify it, the conditions contained therein thus becoming binding on the ratifying State like any treaty or other international agreement; the ratifying State is obliged to introduce legislation or take other necessary measures, as laid down in the Convention. A Recommendation, on the other hand, is not binding and merely gives guidance, usually complementing a Convention.

The ILO has been meeting regularly since 1919 and adopting Conventions and Recommendations at each annual conference; consequently, a formidable body of international labour standards has developed. To quote from a Labour Canada publication:

> "In a country that fully applied the International Labour Code, a worker would in the first place enjoy certain basic rights and freedoms. He could not be subjected to forced labour. With his fellow workers he would have the right to establish or join a union without interference and with protection against acts of anti-union discrimination. The right of collective bargaining would be protected. He would enjoy equality of employment opportunity without discrimination based on race, colour, sex, religion, political opinion, national extraction or social origin. The principle of equal remuneration for men and women workers for work of equal value would be applied.
>
> "The government would maintain a full employment policy and would provide an employment service and training opportunities. The government would ban or regulate fee-charging employment agencies.

---

[1] These conferences are attended by representatives of workers and employers as well as of governments of member States - a further unique feature of the ILO.

"The following types of social security would be provided; medical care; sickness benefits; unemployment benefits; old age benefits; employment injury benefits; family benefits; maternity benefits; invalidity benefits; and survivors benefits. These benefits would be provided at rates set out in the various Conventions and under appropriate conditions.

"Under the ILO Code a worker would be entitled to the forty-hour week, at least one day's rest in seven, three weeks' annual vacation after a year of service, and a wage at least equal to a minimum fixed by government authority in accordance with certain principles. He would be ensured of the full, prompt and unconditional payment of wages. Women would be entitled to a period of maternity leave of at least twelve weeks and also to cash and medical benefits. The minimum age for entry into employment would normally be at least 15 (higher in the case of hazardous occupations) and young persons would be given a medical examination before entering employment and would be protected against working at night.

"In the field of occupational safety and health, workers would be protected against a variety of hazards such as unguarded machinery, exposure to radiation and various dangerous substances and being required to carry unduly heavy loads. Governments would provide adequate labour inspection services.

"Such vulnerable groups as migrant workers and native or indigenous workers would be entitled to special protection as needed and equal access to the benefits described above.

"Finally the ILO Code contains a number of instruments designed to meet the special needs of workers in particular industries or occupations such as agricultural workers, maritime workers, dockers, fishermen and miners."[1]

On the surface, Canada's record of only 26 ratifications, out of the 149 Conventions adopted by the ILO between 1919 and 1977, does not seem very good. This judgment, however, must be qualified by an understanding of the significance of these numbers, and of the difficulties confronting Canada in the ratification process.

In the first place, some Conventions have been revised and replaced by others. For this and other reasons, they are out of date, and their ratification would serve no useful purpose. In 1974, the Government of Canada recommended that the ILO review existing Conventions and Recommendations "in order to declare which instruments should be retained in a modern code of standards, to identify instances where revision of existing Conventions would be desirable, and to identify

---

[1] John Mainwaring, A Review of International Labour Conventions (Labour Canada, 1974), pp. 44-45.

subject areas not adequately covered by existing instruments." It further recommended a systematic and continuing review in order to keep ILO standards up to date and that any Convention not retained as part of the modern code be no longer regarded as a target for ratification.[1] The ILO is in process of conducting such a review, consideration being given, among other things, to replacing some of the older instruments by more up to date ones, and the development of a list showing for each subject area the up-to-date standards which remained significant.

Pending the conclusion of this review, Canada's record can be considered on the basis of the target Conventions indicated in the above-mentioned Labour Canada publication. By eliminating the out-of-date Conventions, a total of 74 "modern" Conventions are left (this includes those adopted between the date of the above publication and the 1977 Conference), out of which Canada has ratified 18. Although this only improves Canada's ratification record from 17 to 24 per cent, it makes the process of comparison more realistic.

The difficulties in the way of ratification must be taken into account. In the first place Canada is not a unitary State. It is a federal State, in which labour affairs fall mainly within the provincial jurisdiction. This means that, although the federal government ratifies Conventions, in most cases it would be unwise to do so until all the jurisdictions empowered to implement its provisions had concurred. A government ratifying a Convention lays itself open to the rigorous scrutinizing procedures of the ILO and international censure if it does not fulfil its obligations. Consequently, the federal government has to be absolutely certain that all jurisdictions are in compliance, or will be in compliance at the required date, before it does ratify.

Secondly, a Convention or a part of a Convention may be considered inappropriate to Canadian circumstances. Conventions dealing with non-metropolitan territories and with the problems of developing countries, such as the Plantations Conventions, cannot be ratified by Canada.

Furthermore, in view of the demand for equal opportunities for women, the requirements for special protection for women, included in many Conventions, must be reconsidered. Since the 19th century, when protective legislation was first introduced, there has been a considerable change in social standards and in the status of women. This is particularly so in North America and Western Europe where the movements for equal opportunity are particularly strong. This changed status renders the establishment of special conditions for women unnecessary, and in fact, they may be considered reactionary. Protective legislation which bars them from certain occupations, such as mining, may also be regarded as contrary to their interests.

---

[1] ILO: In-Depth Review of International Labour Standards, (November 1974), GB194/PFA/12/5, p.10.

"The Declaration of Equality of Opportunity" adopted by the 1975 International Labour Conference, stated that women should "be protected from the risks inherent in their employment and occupation, on the same basis and with the same standards of protection as men." Convention clauses which, as in the Maximum Weight Convention, make special provisions for women, would not therefore, be considered as targets for compliance.

Finally, are those provisions in Conventions which, while not necessarily being superior, diverge from the Canadian approach. For instance, while the federal government does not specifically prohibit work processes involving the use of benzene or products containing benzene (as requested in Convention 136), it does ensure that where benzene is used, this is done only under safe conditions. Before passing judgment, therefore, it is necessary to consider whether the objectives of the Convention are being met in some other way.

The purpose of this document is mainly to consider those unratified Conventions which, in part or as a whole, are relevant to Canada, and the action necessary to achieve compliance. Where complete compliance is not possible for any of the reasons indicated above, the extent to which further compliance might be achieved is outlined. In order to present a more complete picture of Canada's standing in relation to the International Labour Code, as well as to inform the reader of its international obligations, the ratified "modern" Conventions are also included.

To make this picture more graphic, the chapters are arranged in accordance with the subject matter in the above quotation from A Review of International Labour Conventions. Chapter I deals with basic rights; Chapter II with employment policy; Chapter III with social security; Chapter IV with general conditions of employment; Chapter V with occupational safety and health; Chapter VI with labour administration; and Chaptr VII with seafarers, fishermen and dockers. Each chapter contains an introduction and summary of the Canadian position in its subject area, and a discussion of each of the relevant Conventions. Chapter VIII attempts to provide an overall summary of where Canada stands in relation to the International Labour Code.

The information in the document is valid as at April 30, 1978, except that Conventions 148 and 149, dealing respectively with Working Environment and Nursing Personnel, which were adopted by the ILO in 1977, have been excluded because their recent adoption has not allowed sufficient time to judge the degree of compliance. Copies of all Conventions are obtainable from the International and Provincial Relations Program, Labour Canada, (Ottawa, Ont., K1A 0J2) or from the Ottawa office of the International Labour Organization (178, Queen Street, Ottawa, Ont., K1P 5E1).

Chapter I: Basic Rights

This chapter covers three main areas of basic rights in the sphere of labour, namely: freedom of association, abolition of forced labour and elimination of discrimination.

It should be recognized, however, that all Conventions are closely connected with the question of rights. The right to freedom is the basis of opposition to forced labour, the right to a reasonable standard of living is basic to a discussion of employment policy and the rights of migrant workers and indigenous people are central to the discussion of policies for these groups. Programs of social security are involved with protecting the rights of workers who are disadvantaged as a result of unemployment, incapacity, old age, etc. The Conventions dealing with conditions of employment are concerned with "rights in employment," and those on occupational safety and health with the right to a safe and health work environment.

However, freedom of association, abolition of forced labour and elimination of discrimination are basic rights in the sense that they are essential to the establishment and enjoyment of the other rights in the field of labour. One cannot talk of rights in employment, for instance, unless labour is free, workers are able to join associations, and no person suffers discrimination on grounds of sex, race, religion and national origin.

Freedom of Association. Freedom of association is so fundamental to any consideration of labour standards that it seems surprising that the first general Convention guaranteeing freedom of association was not introduced until 1948. Prior to this there had been two Conventions, one guaranteeing the right of association to agricultural workers and the other guaranteeing the same right to workers in non-metropolitan territorities. The absence of a more universal Convention until 1948 can be largely explained by the fact that the right was so fundamental and was in fact embodied in the preamble to the ILO constitution that workers' representatives did not consider it necessary to have a Convention protecting the right for all workers. However, experience showed that a principle laid down in the Preamble to the Constitution did not have the same binding power as a ratified Convention. Consequently, during the inter-war period, workers' delegates at the ILO sought to introduce a Convention guaranteeing freedom of association.[1] Their efforts were finally successful in 1948 when the Freedom of Association and Protection of the Right to Organize Convention (No. 87) was adopted.

Convention No. 87, which guarantees workers and employers the right to form associations without government interference, has been ratified by Canada. The Right to Organize and Collective Bargaining

---

[1] See G.A. Johnston, The International Labour Organization, (London, 1970) pp. 150-1.

Convention (No. 98), which was adopted in 1949, protects workers from anti-union discrimination and unions from outside interference. Ratification would be possible if the coverage of a few provincial labour relations acts was extended to cover professional employees and/or farm workers.

This chapter also contains reference to the Worker Representatives' Convention (No. 135) and the Rural Workers' Organizations Convention (No. 141), because of their close connection with the freedom of association. Convention 135 seeks to protect workers' representatives against discrimination and to guarantee them appropriate facilities to carry out their work. Since this is a matter decided by collective agreement in Canada, ratification has not been considered appropriate. Convention 141 which deals with rural workers' organizations, is more appropriate for developing countries; and the recognition of the freedom of association of farm workers is covered in Convention 98.

Forced Labour. Before the Second World War, the main concern in this field was the exploitation of the labour of subject peoples. Consequently, the Canadian Government did not consider it necessary to ratify the Forced Labour Convention (No. 29). However in the postwar period, particularly as a result of wartime experience, it was recognized that forced labour could apply to the subjects of metropolitan areas, as a means of political coercion, labour discipline and discrimination, to mobilize labour for economic development, and, as punishment for participating in strikes. Consequently, in 1957, a more general Convention, namely the Abolition of Forced Labour Convention (No. 105) was introduced. This Convention has been ratified by Canada.

Discrimination in Employment. The opposition to discrimination to employment was first manifest in the demand for equal remuneration for work of equal value; this principle was embodied in the Labour Charter in 1919. Although this principle was reaffirmed in resolutions passed in 1937 and 1939 and in a minimum wage-fixing Recommendation in 1928, it was not the subject of a Convention until 1951. The Equal Remuneration Convention (No. 100) requires members to promote the application of the principle to all male and female workers, on the basis of objective job appraisals of the work performed. This Convention has been ratified by Canada.

The Discrimination (Employment and Occupation) Convention (No. 111), adopted in 1958, requires member States to adopt policies which would seek to eliminate discrimination on the basis of race, colour, sex, religion, political opinion, or national or social origin. Since all jurisdictions have introduced human rights legislation, Canada has been able to ratify this Convention.

Summary. In the area of Basic Rights, Canada has taken a full part in the international effort to extend basic freedoms and eliminate discrimination. The only areas where attention seems to be necessary are the extension of freedom of association to farm workers and professionals in various jurisdictions.

CONVENTION 87: FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANIZE
(Adopted 1957; ratified by 87 States as of January 1, 1978 (including Canada, 1972))

Main Provisions

The Convention asserts that workers and employers have the right to join organizations of their own choosing without previous authorization, these organizations being defined as groups to further and defend the interests of workers or employers. They are to function autonomously and to be free from government interference in the drafting of their constitutions, election of representatives, organizing their administration and activities and formulating programs, and cannot be dissolved by an administrative authority. International affiliation to workers' and employers' federations shall be allowed. As legal personalities, they shall be subject to the laws of the land as much as private individuals, although the law cannot be so applied as to impair their functioning. National laws or regulations are to determine the involvement of the armed forces and police in such organizations. Each ratifying State must take the necessary and appropriate measures to ensure that workers and employers may freely exercise the right to organize.

Canadian Position

Canada ratified this Convention in 1972.

CONVENTION 98: RIGHT TO ORGANIZE AND COLLECTIVE BARGAINING
(Adopted in 1949; ratified by 104 States as of January 1, 1978)

Main Provisions

The Convention which provides for protection of workers against anti-union discrimination, calls for establishment of machinery to protect the right to organize, to encourage and promote collective bargaining, and for the protection of unions against outside interference and financial domination. It does not apply to public servants "engaged in the administration of the state," and applies to police and armed forces only to the extent determined by national laws and regulations.

Canadian Position

There is substantial compliance in Canada with the basic provisions of the Convention. However, in Prince Edward Island, Nova Scotia, Ontario and Alberta, members of the medical, dental, architectural, legal, engineering (except Ontario) and land surveying (Ontario only) professions, employed in their professional capacity, are excluded from the provisions of the relevant Acts. Farm workers are also excluded in Ontario; and in Alberta, unless the Board of Industrial Relations decides otherwise, on the grounds of their being employed in a "commercial undertaking."

CONVENTION 135: WORKERS' REPRESENTATIVES
(Adopted in 1971; ratified by 31 States as of January 1, 1978)

Main Provisions

The Convention stipulates that workers' representatives in the undertaking should enjoy effective protection against dismissal, or any other prejudicial act, on account of their status or activities as workers' representatives, and provided they conduct themselves in conformity with existing laws and collective agreements. They should also be granted the necessary facilities to enable them to carry out their function promptly and efficiently, provided this does not impair the efficiency of the undertaking. Workers' representatives may include trade union representatives or those elected by the workers in an undertaking, in accordance with laws, regulations, collective agreements, arbitral awards or court decisions, and provided the latter are not used to undermine the position of trade unions. These measures may be effected through national laws or regulations, collective agreements, or accepted practice.

Canadian Position

Labour relations legislation in the various jurisdictions adequately protects the rights of workers' representatives. However, this legislation generally prohibits interference by the employer in the formation or administration of trade unions, and although this does not prohibit him from granting facilities to a representative, such as attending to union business during working hours, it does not oblige him to do so.

The Canadian approach (supported by labour) is that the provision of facilities should be dealt with through collective agreements rather than through legislation. Full compliance would apparently require that every jurisdiction should either introduce legislation to implement the Convention, or require the partners in the negotiating process to do so. For this reason, the Convention is not considered suitable for ratification by Canada.

CONVENTION 141: RURAL WORKERS' ORGANIZATIONS
(Adopted in 1975; ratified by 10 States as of January 1, 1978)

Main Provisions

The Convention, which refers mainly to conditions in developing countries, establishes standards for organizations of rural workers. It guarantees freedom of association to all rural workers (defined as those engaged in agriculture, handicrafts or a related occupation in a rural area whether as wage-earners, self-employed persons, or paid family workers) and stipulates that their organizations shall be independent and voluntary in character, and free from interference, coercion, or repression. Member States shall actively encourage these organizations in

order to eliminate obstacles to their establishment and development, shall ensure that their establishment and growth shall not be inhibited by national laws or regulations, and shall also seek to promote the widest possible understanding of the need for their further development.

Canadian Position

The main aim of the Convention is to meet the needs of rural populations in developing countries, and is not relevant to Canada. Agricultural workers are covered by labour relations legislation in most jurisdictions[1].

CONVENTION 29: FORCED LABOUR
(Adopted in 1929; ratified by 114 States as of January 1, 1978)

Main Provisions

The Convention seeks the suppression of forced or compulsory labour, which is defined as "all work or service which is accepted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Exempted from the provisions are compulsory military service, minor communal services rendered by members of a community in the direct communal interest; work which forms part of a normal civic obligation or made necessary by an emergency; and any work carried out as a consequence of a conviction in a court of law, provided it is under the control of a public authority and not being used for private ends. Where forced labour exists it shall be progressively abolished and subject to certain defined limits.

Canadian Position

The Convention was aimed primarily (but not exclusively) at the colonial powers. As Canada has no colonial possessions, some provisions of the Convention are inapplicable, and as forced labour has not been practised in Canada, there has been no need to introduce legislation or other measures prohibiting or regulating it. This was the gist of an opinion expressed in Order in Council P.C. 770, of April 2, 1931 by the then Minister of Justice. Consequently, it has not been considered necessary to ratify the Convention.

---

[1]See Conventions 87 and 98, p.7.

CONVENTION 105: ABOLITION OF FORCED LABOUR
(Adopted 1957; ratified by 98 States as of January 1, 1978 (including Canada, 1959))

Main Provisions

This differs from Convention 29 in that it deals primarily with forced labour as a means of coercion against persons of opposing political ideologies. It seeks the suppression of the use of coercion as a method of mobilizing labour for economic development, as a means of labour discipline, as punishment for having participated in strikes or as a form of racial, social, national or religious discrimination. Upon ratification, a member state must abolish immediately all types of forced labour.

Canadian Position

The subject matter of the Convention falls within both federal and provincial jurisdictions. In January 1958, the Minister of Justice considered ratification as appropriate, since there was no existing contrary legislation and further legislation was not necessary to implement it. The convention was therefore ratified by Canada the following year.

CONVENTION 100: EQUAL REMUNERATION
(Adopted in 1951; ratified by 93 States as of January 1, 1978, (including Canada, 1972))

Main Provisions

The Convention enjoins each ratifying State to adopt appropriate procedures to promote and seek to ensure that the principle of equal remuneration for work of equal value shall be applied to all male and female workers. It does not require immediate compliance, but rather progressive application.

Remuneration includes the basic salary and any additional benefits payable by the employer to the worker directly or indirectly in cash or in kind arising out of employment. Measures taken, where appropriate, to promote wage differentials are permissible as long as they are job- and not sex-related.

These procedures may be included in national laws or regulations, the legally established and recognized machinery for wage determination or collective agreements, or a combination of these. Co-operation between governments, employers' and employees' organizations is envisaged as appropriate for the implementation of the Convention.

Canadian Position

All jurisdictions in Canada have recognized and endorsed the provisions of the Convention by legislative measures, either in human rights legislation, labour standards legislation or in special acts dealing with equal remuneration or antidiscrimination. In some cases, the wording of the legislative provisions may need amending in order to broaden their scope but the legislation does satisfy the requirement of the Convention as a first step in a progressive application of the principle. Canada ratified the Convention in 1972.

CONVENTION 111: DISCRIMINATION (EMPLOYMENT AND OCCUPATION)
(Adopted 1958; ratified by 95 States as of January 1, 1978 (including Canada, 1964))

Main Provisions

Each ratifying State undertakes to promote, by methods appropriate to national conditions and practices, equality of opportunity and treatment in employment with the aim of eliminating discrimination. Discrimination includes any distinction, exclusion or preference on the basis of race, colour, sex, religion, political opinion, national or social origin, which may impair such equality. It excludes cases where the job itself demands certain inherent requirements, or where a job refusal is based on a justifiable suspicion of, or actual engagement in, activities prejudicial to state security, provided suitable appeal procedures exist. The terms "employment" and "occupation" also include access to vocational training and the terms and conditions of work. In promoting this policy, the Member shall seek the co-operation of employers' and workers' organizations, enact legislation and introduce educational programs, repeal any inconsistent statutory provisions or administrative practices, consolidate employment policies and vocational training under the direct control of a national authority, and issue annual reports on the action taken in pursuance of the Convention's policies.

Canadian Position

All jurisdictions have introduced human rights legislation dealing with the subject matter of the Convention, which Canada ratified in 1964.

Chapter II: Employment Policy & Services

Employment and unemployment have been matters of concern to the ILO since its inception. Two Conventions dealing with employment agencies and unemployment insurance were adopted between the wars, but have been superseded by other Conventions after the Second World War.

The Declaration of Philadelphia, adopted at the 1944 Conference recognized the need for world programs which would achieve "full employment and the raising of the standards of living." Eventually in 1964, the Employment Policy Convention (No. 122) was adopted, enjoining Member States to "pursue as a major goal, an active policy designed to promote full, productive and freely chosen employment." This Convention, which forms the basis of the 1969 World Employment Program and the World Employment Conference organized by the ILO in 1976, has been ratified by Canada.

In the field of employment services, as distinct from employment policy, the Employment Service Convention (No. 88) was adopted in 1948 and the Fee-Charging Employment Agencies Convention (Revised) (No. 96) in 1949. The former, which has been ratified by Canada, enjoins the ratifying States to establish a nation-wide free public employment service which shall assist the achievement of full employment. The latter Convention is complementary to the former and requires a State either to control and supervise fee-charging employment agencies, or to abolish them completely. Its subject matter comes within provincial jurisdiction and compliance is substantial, though not complete.

In 1975, the Human Resources Development Convention (No. 142) was adopted. This requires Member States to adopt policies and programs of vocational guidance and training, linked with employment policies and utilizing public employment services. This Convention seems generally acceptable to Canada, and more detailed study and consultation with the provinces will indicate whether ratification is feasible.

Any study of human resources development must consider the role and interests of both migrant workers and indigenous peoples. The former need protection in a foreign country, the latter in a society which is alien to their accustomed mode of life.

In view of its international implications, migration occupied the attention of the first International Labour Conference in 1919 when an international commission was established to consider protective measures for migrants. However, a Convention adopted in 1939 received no ratifications, and was superseded in 1949 by a revised Convention (No. 97); in 1975, this was complemented by a further Convention.

Both Conventions seek to protect migrant workers. The former requires the receiving country to give service to migrants in their departure, journey and reception and guarantee their employment rights. The latter adds supplementary provisions such as protection against illegal employment, ensuring of equality of treatment with nationals and

protection of their cultural identity. Although Canada complies to a considerable extent with both Conventions, it cannot do so fully because of the need to distinguish between "landed immigrants" and "non-immigrants." While the former enjoy the same rights and benefits as nationals, the latter do not.

The Indigenous and Tribal Populations Convention (No. 107), adopted in 1957, is intended for tribal and semi-tribal aborigines, who are at a different stage of development from other sections of the national community and who live more in conformity with their own customs and social, economic and cultural institutions. The conditions prevailing in Canada with respect to peoples of indigenous origin differ from those in other countries envisaged by the Convention. Canada complies adequately with the Convention's requirements in regard to the treatment of Indians and Inuit; but ratification would not be possible because of complications regarding land-holding and the status of Metis and non-status Indians.

Summary. In the field of Employment Policy, the pursuit of full employment continues to be recognized by governments as a high priority in spite of the current levels of unemployment. The requirements of Conventions 88 and 96 regarding the establishment of employment services are almost fully complied with. In the sphere of migrant workers and indigenous workers, there is considerable compliance.

CONVENTION 122: EMPLOYMENT POLICY
(Adopted in 1964; ratified by 61 States as of January 1, 1978 (including Canada, 1966))

Main Provisions

The Convention incorporates the policies presented in the Declaration of Philadelphia and the Universal Declaration of Human Rights, whereby "all human beings, irrespective of race, creed or sex," have the right to be protected from unemployment and to choose their employment freely in conditions of freedom, dignity, economic security and equal opportunity.

Each ratifying Member shall declare and pursue an active program to promote full, productive and freely chosen employment, to stimulate economic growth and development, raise levels of living, meet manpower requirements and overcome unemployment. The policy shall aim at ensuring that work of a productive nature is available for those seeking jobs, and that every worker will be able to freely choose employment wherein his skills and abilities will be best employed.

Ratifying States will continually review their programs to ensure their consistency with economic and social policies and the attainment of the Convention's objectives. Consultation with employers' and workers' representatives in order to solicit their support and participation in formulating such policies is envisaged.

Canadian Position

Canada ratified the Convention in 1966. Since the adoption of the White Paper on Employment and Income in 1945, the federal government has been committed to achieving a high and stable level of employment. Regional development policies seek to deal with regional unemployment. Manpower policies have been designed to meet labour market needs by job matching, placement and counselling services, upgrading, training, removal grants, labour market information, direct job creation, youth employment projects, etc. Consultation with employers' and workers' organizations takes place through the Economic Council, and various consultative mechanisms. Federal-provincial consultative arrangements exist to deal with manpower planning, training, regional development, and other matters.

CONVENTION 88: EMPLOYMENT SERVICE
(Adopted in 1948; ratified by 65 States as of January 1, 1978 (including Canada, 1950))

Main Provisions

The Convention aims at the establishment and maintenance of free public employment services, which shall promote the co-operation of public and private bodies in the optimal organization of the employment market, the achievement of full employment and the development and use of productive resources.

Such a service shall be directed by a national authority and comprise a national system of conveniently located employment offices at local and regional levels sufficient to cover the country, and subject to revision when significant distribution changes in employment or other circumstances warrant it. Areas with insufficient population and development may be exempted. Advisory committees, in the local and regional spheres, shall encourage the co-operation of employers' and workers' organizations in the development of such a project. Co-ordination of public with private non-profit-making agencies is envisaged.

The Convention lays down standards relating to the general policy and functions of an employment service, such as recruitment and placement procedures, local manpower-needs forecasting, data collection and analysis, unemployment insurance and other relief administration. The employment services shall be staffed by impartial and adequately trained civil servants.

Canadian Position

Canada ratified the Convention in 1950. Measures implementing the Convention such as recruitment and placement procedures, job creation, data collection, forecasting, and unemployment insurance are administered through the federal Department of Employment and Immigration, in collaboration with the provinces in most instances.

CONVENTION 96: FEE-CHARGING EMPLOYMENT AGENCIES (REVISED)
(Adopted in 1949; ratified by 35 States as of January 1, 1978)

Main Provisions

The main concern of the Convention is the control and supervision of private fee-charging employment agencies conducted with a view to profit. The ratifying country must either abolish all private fee-charging employment agencies conducted for profit and regulate all other private agencies, or regulate all private fee-charging agencies, including those conducted for profit. Where it does not abolish the profit-making agencies, they should be required to have an annually renewable licence, and the schedule of fees they may charge employers or workers must be according to a scale fixed or approved by the competent authorities. The competent authorities must also take the necessary steps to ensure that non-fee-charging agencies carry on their operations gratuitously.

Canadian Position

This is considered to be a provincial matter, and all jurisdictions, except Newfoundland and Prince Edward Island, have legislation regulating fee-charging private employment agencies. The Yukon and Northwest Territories have legislation disallowing all but non-fee-charging private agencies. Quebec, Ontario, Manitoba, Alberta and British Columbia have licensing provisions in their legislation, but such provisions are lacking in the Nova Scotia, New Brunswick and Saskatchewan legislation. Nova Scotia, New Brunswick, Quebec, Manitoba, Saskatchewan, Alberta and British Columbia prohibit the charging of fees to employees, but do not prescribe a scale which may be charged to employers. Ontario is the only province with a scale of fees, but this is only for employees.

The federal government provides non-fee-charging agencies, in the form of Canada Manpower Centres, on a country-wide basis. Quebec also provides this service through the Labour-Quebec province-wide system.

CONVENTION 142: HUMAN RESOURCES DEVELOPMENT
(Adopted in 1975; ratified by 10 States as of January 1, 1978)

Main Provisions

The objective of the Convention is the development of human resources by the encouragement of vocational guidance and training services in order to build a labour force capable of adapting to national manpower needs. Member States are required to adopt suitable programs taking due account of employment needs, economic, social, and cultural development, and the mutual relationships between human resources development and other economic, social and cultural objectives. Member States

are required to gradually extend their systems of vocational guidance and training, including information on continuing employment as well as on the general aspects of collective agreements and workers' rights and obligations under labour legislation.

The co-operation of employers' and workers' organizations and other bodies interested in the formulation and implementation of vocational guidance and training policies should be sought.

Canadian Position

The Convention is generally acceptable to Canada and its requirements are exceeded in most areas. Further study and consultation with the provinces is necessary in order to establish the meaning and scope of the concepts and terms included in the Convention and the respective responsibilities of the federal government and provincial governments in its implementation. Emphasis should probably be placed upon the relationship between academic and vocational school systems in the area of vocational guidance and training, and the application of vocational guidance to children and young persons.

CONVENTION 97: MIGRATION FOR EMPLOYMENT (REVISED)
(Adopted in 1949; ratified by 31 States as of January 1, 1978)

CONVENTION 143: MIGRANT WORKERS (SUPPLEMENTARY PROVISIONS)
(Adopted in 1975; ratified by 2 States as of January 1, 1978)

Main Provisions

The Conventions seek to protect "migrants for employment," i.e., persons who migrate from one country to another with a view to being employed otherwise than on their own account. Excluded are frontier workers and seamen, members of professions and artistes on short-term entry, employees on short-term specific assignments, and persons coming for training.

Convention 97 requires Member States to provide an adequate and free service to assist and inform migrants, and to facilitate their departure, journey and reception by the simplification of administrative procedures and provision of interpretation services, adequate medical health services, etc. during the journey. Conditions are laid down relating to: equal treatment with nationals so far as working, living and social conditions are concerned; forbidding forcible deportation; the right to transfer funds and import personal effects; recruitment; and other matters. The ILO must be provided with accurate information on such policies and measures.

Convention 143, which complements Convention 97, consists of two parts which may be ratified separately. Part I seeks to abolish abusive conditions of migration, such as clandestine movement and illegal employment of migrant workers; and to provide for the protection of

migrants who became unemployed, and for employers and migrants who erred but acted in good faith. Part II establishes the need for policies ensuring equality of treatment to migrants in the areas of employment, social security, and trade union, cultural and social rights. Steps are also to be taken to protect their national and ethnic identity and their cultural ties with their country of origin. The assistance of employee and employer organizations should be sought in enacting the necessary legislation and to promote educational programs to acquaint migrant workers with the necessary information to assist them in adapting to local conditions.

Canadian Position

The subject matter of the Conventions is partly within federal and partly within provincial jurisdiction. "Landed immigrants" enjoy full equality with Canadian citizens, but "non-immigrants," who include seasonal workers allowed entry for a definite period of time only, and persons on temporary work permits, are not eligible for all benefits.

It is not Canadian practice to deport immigrants at any time on the grounds of their having become public charges. The recruitment activities of employers of migrants are supervised by the Department of Employment and Immigration which will cease to co-operative with any employers who treat their employees unfairly. There are no restrictions on the transfer abroad of the migrants' funds. Migrants' personal effects, tools and portable equipment are exempt from customs duties under the Settlers' Effects Regulations. All laws and regulations (federal and provincial) relating to migrant employees are published and easily available; information and initial assistance is provided to migrants by more than 40 immigration offices in some 30 countries and by some provincial governments with offices abroad; Canada Manpower Centres and Quebec provincial employment bureaux supply free information and advice to migrants on employment possibilities as well as on accommodation. Prior to undertaking a journey, migrants undergo medical examinations, and Canadian seaports and airports provide modern treatment facilities, any necessary hospital costs being chargeable to the transportation company. Measures are taken against the abusive conditions referred to in Part I of Convention 143.

The main obstacle to ratification by Canada is the inclusion of seasonal workers and other "non-immigrants" in the coverage of the Convention.

CONVENTION 107: INDIGENOUS AND TRIBAL POPULATIONS
(Adopted 1957; ratified by 27 States as of January 1, 1978)

Main Provisions

The Convention is intended for tribal or semi-tribal indigenous populations whose stage of development is less advanced than other sections of the national community and who live more in conformity with their own customs and social, economic and cultural institutions than

with those of the country in which they are domiciled. Governments shall be primarily responsible for programs to protect and progressively integrate these groups into the life-styles of their respective countries without coercion or loss of dignity; they shall have equal rights and opportunities according to national laws or regulations; their social, economic and cultural development shall be promoted, and their standard of living raised. If the social, economic and cultural conditions of these populations justify their exclusion from national laws, specific measures shall be adopted in collaboration with their representatives to protect their institutions, persons and property for as long as is necessary without causing segregation.

Wherever possible, customary laws should be retained and the conditioning and development of indigenous people should be taken into account where they come in contact with the national legal system. Ownership rights over traditionally occupied lands shall be recognized, and displacement must only be in exceptional circumstances, and accompanied by appropriate compensation.

There shall be no discrimination in admission to, and condition of, and in their access to the social security and educational systems. Measures shall be adopted to dispel discrimination or prejudice harboured by other sections of the nation.

Canadian Position

In Canada, there are approximately 288,000 people who are status Indians within the meaning of the Indian Act, the principal Act of Parliament dealing with Indians and Indian reserves. The detailed definition of an Indian contained in the Act applies only to the implementation of the Act. The Indian population is subdivided into 569 bands living on 2,196 reserves and some 79 settlements. Only six of these bands have populations in excess of 3,000; 67, between 1,000 and 3,000; 112, between 500 and 1,000; and the great majority, (i.e. 384) less than 500.

There are approximately 19,000 Inuit of whom 13,000 live in the Northwest Territories, 5,000 in Arctic Quebec and 1,000 in Labrador. There is no general Act of Parliament dealing with the Inuit, but for most purposes there is no difference between services provided to Inuit and Indians by the Canadian Government.

An Indian reserve is Crown-owned land reserved for the use and benefit of a particular Indian band. Only the Government of Canada can sell or lease reserve land, but in practice sales and most leases are made only with the consent of the band concerned. In Canada, Indians and Inuit do not personally own land simply by having occupied it traditionally. The issue of whether Indians and Inuit have any rights over such lands has never been clarified in Canadian law.

Métis and non-status Indians are persons whose ancestry includes an Indian element, but who are not included in the definition of an Indian set out in the Indian Act. Métis and non-status Indians are primarily the responsibility of the province in which they are resident and are not treated as a separate legal entity, although certain provincial laws in Manitoba, Alberta, and Saskatchewan have given them some form of recognition.

All Canadian Indians and Inuit have the same freedom of movement as other Canadians and no Indian is compelled to live or work on a reserve. They enjoy full political rights as citizens, and can and do participate freely in the political process at all levels. The Canada Labour Code Part I (Fair Employment Practices) and the Canada Human Rights Act make it an offence to discriminate against persons on the basis of race over a very broad range of subjects, including the furnishing of goods, services, facilities or accommodation customarily available to the general public. In addition, Indians and Inuit are entitled to the protection of provincial and territorial anti-discriminatory legislation of general application. The Canada Labour Code requires certain safety measures and a minimum wage for everyone, including Indians and Inuit, employed on operations which are under federal jurisdiction. Indians and Inuit are covered by the minimum wage and maximum working hours per week fixed by the Fair Wages and Hours of Labour Act as are all persons employed under federal government construction, remodelling and demolition contracts.

Indians and Inuit are legally entitled to all the benefits under all federal and provincial assistance programs offered generally to members of the public. In addition there are substantial federal programs specifically designed to meet the particular needs of Indians and Inuit in the areas of social, cultural and economic development.

In line with its policy since 1970, the federal government consults the Indian people on major issues related to Indian policy in order to better assist the Indian people in achieving their cultural, economic and social aspirations within Canadian society. In this context, it also seeks to assist status Indians in participatory decision-making through support for their Band Councils (local governing bodies).

The federal government provides core-funding and other types of financial assistance to native associations which promote the interests of status Indians, as well as those of Métis and non-status Indians. In addition to programs supported by the federal government, Ontario and Manitoba offer vocational programs in agriculture, engineering, and technology, and encourage handicraft and rural industries. The Yukon Territory, British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec provide schemes to encourage small business and employment opportunities in primary and secondary industry among Indians and Inuit.

The Métis are assisted in employment and education by certain provincial and territorial services such as the Ontario Community Services, the British Columbia First Citizens' Fund, the Northwest Territories Higher Education Program and the Alberta Human Resource

Development Authority. Certain joint federal-provincial programs such as the Rural and Native Housing Program are also designed to serve Métis and nonstatus Indians. In 1972, Saskatchewan established the Department of Northern Saskatchewan, which introduced a new co-ordinated approach to the provision of government services to the residents of Northern Saskatchewan, most of whom are of native ancestry. In Quebec, the James Bay Agreement grants to native people in the area, hunting and fishing as well as communal rights, and establishes health, education and social service facilities, as well as a development society and a program of income security.

Federal and provincial programs in education, agriculture and economic development meet the standards of the Convention. The Government of Canada is assisting Indians and Inuit to preserve and foster their language, where requested to do so, but this is a difficult task because many of them are spoken by a relatively small group. Indian and Inuit people have expressed their opposition to assimilation by the white society, and the Government of Canada accepts this as a position which the Indian people are justified in maintaining, to the extent they themselves wish to do so.

Although improvements are certainly desirable, and apart from its policy on Indian land holding, Canada complies adequately with the requirements of Convention 107 with respect to status Indians and Inuit.

Chapter III: Social Security

The development of policies and programs of social security is of comparatively recent origin. When the ILO was founded in 1919, no country had a comprehensive system of social insurance. In 1925, the International Labour Conference approved a program of action and study in the field of social security, which was implemented by a series of Conventions and Recommendations adopted at the 1925, 1927, 1933 and 1934 conferences.

These pioneering instruments were superseded in 1952 by a comprehensive Convention - the Minimum Standards of Social Security Convention (No. 102), which covers the whole field of social security, dealing with nine types of contingency. At the same time, it is sufficiently flexible to adapt to local conditions and to the developments in a particular country, in that ratification involves acceptance of the standards laid down for only three of the contingencies in the first place, to be followed, should the Member so indicate, by acceptance of others later. In all fields, and particularly of medical care, unemployment benefits and survivors' benefits, Canada has developed programs which bring it nearer to achieving the ILO standards, but is not yet in a position to comply fully and to ratify the Convention. This is particularly so for programs providing cash benefits, because of the need to maintain benefits at the percentage of the employee's previous earnings laid down in the Convention.

Later Conventions improved on the standards in Convention 102 as well as setting out obligations in a more detailed form. These include the Invalidity, Old Age and Survivors' Benefits Convention (No. 128), the Medical Care and Sickness Benefits Convention (No. 130) and the Employment Injury Benefits Convention (No. 121). Since an examination made several years ago indicated that Canada did not comply with the standards in Convention 102, it can less comply with the higher standards in the later Conventions.

The Equality of Treatment (Social Security) Convention (No. 118) seeks to guarantee foreign nationals resident in the country similar coverage to those enjoyed by the nationals of that country. Canada complies to a considerable extent, the main areas of non-compliance now being in old-age, family employment injury and survivors' benefits.

Maternity Protection is an aspect of social security of particular interest to women workers. The Maternity Protection Convention (No. 103) revised a Convention passed at the 1919 Conference, extending the coverage of its predecessor to cover practically all women workers, as well as improving the conditions. For reasons of principle, Canada could not comply fully, but there is still scope in some jurisdictions for action in order to achieve maximum possible compliance.

Summary. Although Canada has laws covering all areas of the Conventions, in several of them the standards laid down in terms of percentage of previous earnings are not met, and provisions for benefits to increase with earnings are inadequate.

CONVENTION 102: SOCIAL SECURITY (MINIMUM STANDARDS)
(Adopted in 1952; ratified by 29 States as of January 1, 1978)

Main Provisions

Ratification involves compliance with "(a) certain general provisions, (b) the standards laid down in at least three of the nine parts dealing with each of the nine contingencies - medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit, and survivors' benefit (including at least one of the parts dealing with unemployment, old age, employment injury, invalidity and survivors' benefits), and (c) certain common provisions relevant to the parts covered by the ratification."[1]

Medical Care shall be provided for any morbid condition which shall include general practitioner care, specialist care at hospitals, hospitalization where necessary, and essential pharmaceutical supplies; and also for pregnancy. Where the beneficiary is required to share the cost, this shall be so designed as to avoid hardship. The persons protected shall be encouraged to avail themselves of the health services placed at their disposal. To preclude abuse, a qualifying period may be considered necessary. The benefit provided shall continue throughout the contingency covered, except in the case of a morbid condition, where it may be limited to 26 weeks in each case.

Sickness Benefit shall be provided in the form of a periodical payment for incapacity for work resulting from a morbid condition and involving suspension of earnings. The benefit shall be granted throughout the contingency, but may be limited to 26 weeks in each case of sickness, and a qualifying period may be considered necessary.

Unemployment Benefit shall be provided where there is a suspension of earnings due to inability to obtain suitable employment by a person capable of and available for work. A qualifying period and a waiting period (of 7 days) may be prescribed. Receipt of benefits may be limited to 13 weeks within a period of 12 months in the case of employees, or to 26 weeks within a period of 12 months in the case of residents. Where the duration of the benefit varies with the contribution period and/or the benefit previously received, the average duration of benefit must be at least 13 weeks within a period of 12 months. The waiting period and duration of benefit may be adapted to the conditions of employment in the case of seasonal workers.

---

[1]Johnston, op. cit. pp. 198-199.

Old Age Benefits shall be provided for persons who survive beyond a prescribed age, which shall be not more than 65 years or higher where the competent authority considers this feasible in the country concerned. This benefit may be suspended where the person is engaged in any prescribed gainful activity, or may be reduced where the earnings of the beneficiary exceed a prescribed amount. Benefits shall be paid to a person who has completed a qualifying period which may be 30 years of contribution or employment or 20 years of residence, or a prescribed qualifying period of contributions with a prescribed yearly average number of contributions. Benefits (which may be reduced) shall be paid to a person who has served a qualifying period of 15 years, or paid half the yearly average number of contributions for the prescribed qualifying period.

Employment Injury Benefits shall be paid to cover: a morbid condition; incapacity for work resulting from a morbid condition and involving suspension of earnings; total or partial loss of earning capacity likely to be permanent; loss of support of the survivors. The benefit shall include medical care for a morbid condition which shall comprise the services of a general practitioner and special in-patient and out-patient care, dental care, nursing care at home or in hospital, maintenance in hospital, etc., the necessary medical or surgical supplies, and appropriate care by members of other professions allied to the medical. The authorities administering the medical care shall co-operate with Vocational Rehabilitation Services. Where the loss is partial, benefits shall represent suitable proportions of that prescribed for total loss. Periodical payment may be commuted into a lump sum where the degree of incapacity is slight or where the competent authority is satisfied that it will be properly utilized.

Family Benefits shall be provided in the form of a periodical payment to any person having completed the prescribed qualifying period or the provision to or in respect of children, of food, clothing, housing, holidays, or domestic help or a combination of these. The benefits shall be secured after whatever qualifying period may be prescribed, and the total value of the benefit shall be such as to represent three per cent of the wage of an ordinary adult male labourer multiplied by the total number of children of persons protected, or 1.5 per cent of this wage multiplied by the total number of children of all residents.

Maternity Benefits shall be provided in case of pregnancy and confinement and their consequences, and suspension of earnings resulting therefrom. The benefits shall include medical care which will be at least prenatal, confinement and postnatal care, and hospitalization where necessary. This care shall be provided with a view to maintaining, restoring or improving the health of the woman protected and her ability to work and attend to her personal needs. Women protected shall be encouraged to avail themselves of the general health services placed at their disposal. The benefits for suspension of earnings shall be a periodical payment, which shall be granted throughout the contingency; except that the payment may be limited to 12 weeks unless national laws or regulations stipulate a longer period of abstention from work. A qualifying period may be specified.

Invalidity Benefits shall be provided to cover inability to engage in any gainful activity likely to be permanent or to persist after the exhaustion of sick benefit. The benefit shall be granted to a person who has completed 15 years of contribution or employment or 10 years of residence or the prescribed yearly average number of contributions. Benefits (which may be reduced) shall be paid to those who have a qualifying period of five years of contribution or employment or half the yearly average number of contributions for a qualifying period of three years.

Survivors' Benefits shall be paid to include loss of support suffered by the widow or child as a result of the death of the breadwinner, where the widow is incapable of self-support; the benefit may be suspended or reduced if the person is engaged in any prescribed gainful activity. The benefit should be secured at least to a person who has had 15 years of employment or 10 years of residence or whose breadwinner has completed a qualifying period of three years of contribution. Benefits (which may be reduced) shall be paid at least for a qualifying period of five years of contribution or employment, or where the breadwinner has paid half the yearly average number of contributions for a qualifying period of three years. A minimum duration of marriage may be required for a childless widow.

Standards for Periodical Payments. The Convention lays down the percentages of previous earnings of the beneficiary or his breadwinner for each of the above-mentioned benefits, the amount of family allowances being taken into consideration. Where there are no previous earnings or in the case of self-employed, the percentages refer to the wage of an ordinary adult male labourer. Where the legislation refers to residents, the rate shall be determined in conformity with prescribed rules; where they are reduced because the beneficiary has other means, total income shall be "sufficient to maintain the family of the beneficiary in health and decency" and no less than the corresponding benefit calculated for the persons mentioned above. Provision shall be made for reviewing old age, employment injury, invalidity and survivors' benefits in the event of substantial changes in the general level of earnings resulting from cost-of-living changes.

Benefits shall be calculated according to the following table:

Contingency	Standard beneficiary	Percentage of Previous Earnings
Sickness	Man with wife and two children	45
Unemployment	Man with wife and two children	45
Old age	Man with wife of pensionable age	40
Employment injury:		
Incapacity for work	Man with wife and two children	50
Invalidity	Man with wife and two children	50
Survivors	Widow with two children	40
Maternity	Women	45
Invalidity	Man with wife and two children	40
Survivors	Widow with two children	40

Non-national Residents shall have the same rights as national residents, although special rules may be prescribed for non-nationals and nationals born outside the territory for benefits payable out of public funds.

Other Provisions. Benefits may be suspended for various reasons such as absence abroad, making a fraudulent claim, wilful misconduct of the beneficiary, trade disputes, etc. Such suspensions shall be subject to a right of appeal.

The cost of benefits shall be borne collectively by contributions or taxation so as not to cause hardship to the beneficiaries or economic difficulties to the State.

The Convention does not apply to seamen or seafishermen.

Canadian Position

Canadian compliance with this convention has been difficult to determine because of the compounding of the Convention's complications with the complexities of the Canadian political structure. It is necessary, therefore, to consider each of the contingencies separately before a general opinion can be arrived at.

Medical Care Benefits, as prescribed by the Convention, fall primarily within the constitutional jurisdiction of the provinces. Generally, Canada exceeds the requirements laid down in the Convention. For instance, hospital insurance and medical care coverage are not related to previous or past employment but are available to any bona fide resident of Canada. Accordingly, over 99% of the population are covered under the various provincial health insurance plans. As well, there is no limit on the length of time for which treatment will be covered, as long as it is medically necessary. However, universal coverage of

provincial residents with respect to the cost of prescription pharmaceuticals is not a benefit of all provincial plans, although drugs administered as part of hospital care are insured services. Nonetheless, drug benefits form part of many labour contracts, and other population groups, principally the elderly, are covered for these costs under a variety of provincial schemes. Consequently, there may be a large enough percentage of population in these groups to meet ILO criteria.

Sickness Benefits are provided mainly under the federally administered Unemployment Insurance scheme for sickness incurred from the nature of the work. This covers an employee for 15 weeks at a rate of two-thirds of his regular wage. Workmen's Compensation, which is administered by the provincial governments, covers the employee who is temporarily disabled due to a work-related illness or injury at the rate of 75 per cent of his regular salary. Where the worker suffers a permanent impairment, he receives a disability pension from the Canada Pension Plan of $158 a month, after a necessary waiting period.

The amount of compensation complies with the 45 per cent of wage as stipulated in the coverage, but apart from those who are covered by approved private plans, duration is limited to 15 weeks, and is thus inadequate.

Unemployment Benefits are within federal jurisdiction and there is general compliance with the requirements of the Convention.

Old-age Benefits comprise old-age pensions under the Old Age Security (OAS) Act and retirement pensions under the Canada Pension Plan (CPP) or the Quebec Pension Plan (QPP). The OAS and CPP are federally administered. The CPP and QPP retirement pensions are earnings-related, and along with the OAS are periodically adjusted in accordance with increases in the Consumer Price Index. Solely on the basis of the CPP and the QPP, Canada could not comply with the standard established by the Convention (i.e. 40 per cent of the earnings standard). This is because the CPP/QPP retirement pensions amount to 25 per cent of a contributor's updated pensionable earnings averaged over the number of years he could have contributed to the plan; because the ceiling on pensionable earnings is approximately equal to average wages and salaries in Canada; and because a wife's benefit is not provided as part of the CPP/QPP retirement pension. Based on an examination made several years ago, marginal adherence might be achieved by combining the CPP/QPP retirement pension with the OAS pension as regards to scope of protection, payment and duration of benefits, but there is no guarantee of their continuing to be 40 per cent of the ILO earnings standard.

The Employment Injury Benefits standards are partially complied with through the provincial Workmen's Compensation Acts, and the Government Employees' Compensation Act for federal public servants. It is not certain, however, whether the various jurisdictions in the aggregate satisfy the provision that protection is given to not less than 50 per cent of all employed (excluding casuals and outworkers).

Family Benefits are paid by the federal government, supplemented by the provincial government in Quebec and Prince Edward Island.

It would be necessary to ascertain from the ILO whether Part XII of this Convention would involve payment of benefits outside Canada on conditions other than those provided in existing Canadian legislation, and also whether provincial Family Allowance programs are to be included together with federal Family Allowances under this Convention.

Maternity Benefits. Canada complies to a large degree with the Convention, but for reasons of principle, cannot comply fully.[1]

Invalidity and Survivors' Benefits are administered under the CPP and QPP; an examination made several years ago indicated that benefits both failed to meet the required 40 per cent standard. For disability pensions, there are long-term requirements in current Canadian legislation as regards years of contribution, which are different from those set out in the Convention and which would prevent ratification. For survivors' benefits difficulties are envisaged in adhering to the required 40 per cent standard, since only a part of the benefit is earnings-related while the other portion is changed periodically in accordance with the CPI.

Old age, invalidity and survivors' benefits administered under the CPP and QPP, as well as OAS pensions, are adjusted automatically according to a formula based on the CPI. In some provinces, employment injury benefits are similarly adjusted but further study of this would be necessary to assess compliance.

CONVENTION 103: MATERNITY PROTECTION (REVISED)
(Adopted in 1952; ratified by 17 States as of January 1, 1978)

Main Provisions

The Convention provides for maternity leave entitlement of 12 weeks including not less than six after confinement; cash benefits of at least 2/3 of the claimant's previous earnings fixed by national laws to ensure the full and healthy maintenance of woman and child in accordance with a suitable standard of living; and medical benefits to include prenatal confinement and postnatal care by qualified midwives or medical practitioners as well as hospitalization care.

Canadian Position

On the whole there is compliance in Canada with the basic provisions of the Convention regarding cash benefits which are provided across Canada under the federal Unemployment Insurance Act, and medical benefits which are provided in all jurisdictions under hospital care and

[1] See discussion on Convention 103, below.

medical care programs established by the provinces in accordance with the federal law. Legislation covering the right to maternity leave exists in the federal, Newfoundland, Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia jurisdictions.

This legislation does not comply fully with the requirements of the Convention in two respects. The Canadian position is that more flexibility should be allowed regarding the period during which leave is taken, and that it is not necessary to insist that six weeks of the total leave must be taken after confinement. Secondly, it is considered that the nursing breaks provided for in the Convention are not relevant to Canada. For these two reasons, Canada would not regard the Convention as a target for ratification.

CONVENTION 118: EQUALITY OF TREATMENT (SOCIAL SECURITY)
(Adopted in 1962; ratified by 32 States as of January 1, 1978)

Main Provisions

The Convention provides for the granting to foreign nationals resident in a country the same coverage and benefits in those branches of social security, specified by the Member, as are enjoyed by the nationals of that country, provided that the Convention is in force in the country of the foreign national. Obligations may be accepted in respect of any one or more of the following nine contingencies: medical care and sickness, maternity, invalidity, old age, survivors', employment injury, unemployment and family benefits. Qualifying periods of residence may be required for maternity, unemployment, invalidity and old-age benefits. Invalidity, old-age and employment injury benefits may be portable in the event of a recipient going abroad, subject to agreements between the Member State and the State to which the recipient transfers. Member States should endeavour to negotiate schemes of acquired rights.

Canadian Position

Canada complies to a considerable extent in allowing foreign nationals benefits enjoyed by Canadians. All provinces, except British Columbia, provide first-day coverage to bona fide residents for medical care, and hospital insurance, which come under provincial jurisdiction, and for which the provinces receive a federal contribution. In British Columbia, the waiting period for both medical care and hospital insurance is, approximately, only three months and other insurance is available from the private sector to cover the waiting period. Since most persons entering Canada now are destined for designated employment or otherwise provided for, the employer or relatives as the case may be, are usually in a position to help look after the need for insurance until such time as the provincial plan takes over. In the areas of unemployment, sickness, maternity, old-age and family benefits, covered by the federal jurisdiction, nationals and non-nationals (with certain minor exceptions) are treated alike. Employment injury and survivors' benefits are covered

by workers' compensation legislation, which falls within both federal (for merchant seamen) and provincial jurisdictions, all of which provide non-nationals with the same treatment as nationals, and allow for payments, within certain limits, to be made abroad.

However, residence requirements for old-age benefits, i.e., the Old Age Security pension but not the CPP/QPP retirement pension, for persons aged 25 and over residing in Canada on July 1, 1977, or aged 25 and over with residence in Canada prior to that date, exceed those laid down in the Convention. Persons in Canada under age 25 on July 1, 1977, or persons emigrating to Canada for the first time after that date can now meet the residence requirements under the Convention following a recent amendment to the OAS Act. As well, the residence requirements with respect to maternity, sickness and unemployment benefits accord with those under the Convention. Currently, Canada meets the residence requirements under the Convention for CPP/QPP, invalidity and survivors' benefits. However as the CPP/QPP residence requirements respecting these benefits will increase over time, Canada will not be able to meet the Convention residence requirements respecting these benefits in the future, assuming that the CPP/QPP legislation remains unchanged.

The main areas where changes would be required for full compliance are in:

- removing restrictions on the portability of employment injury and/or survivors' benefits (federal, Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Alberta, and the Yukon and Northwest Territories);

- abolishing the waiting period for medical care (British Columbia);

- reducing the residence requirements for old-age benefits (federal).

CONVENTION 121: EMPLOYMENT INJURY BENEFITS
(Adopted in 1964; ratified by 16 States as of January 1, 1978)

Main Provisions

The Convention provides for employment injury protection to all employees, including apprentices, in the public and private sector, as against the 50 per cent coverage required in Convention 102. It allows exceptions in respect of casual employees, out-workers, paid family workers and various other categories of employees, and of seafarers and public servants where they are protected by special schemes not less favourable than those required by the Convention. The contingencies to be covered include a morbid condition, incapacity for work, loss of earning capacity, and loss of support suffered by a dependant, arising from an "industrial accident" (as defined by the Member) or a prescribed

disease resulting from employment. Medical care must be provided in the event of a morbid condition, and cash benefits in the event of incapacity, invalidity, or death, subject to prescribed conditions. The incapacity and survivors' benefits as percentages of previous income are higher than those in Convention 102 (i.e., 60 per cent and 50 per cent respectively). Benefits may be suspended under certain conditions, subject to a right of appeal. There should also be provisions for safety and health precautions, rehabilitation services, and the placement of disabled persons.

Canadian Position

Some compliance with the Convention is achieved in the provinces and the Yukon and Northwest Territories through workers' compensation legislation, through the Government Employees' Compensation Act for federal public servants, and the Merchant Seamen Compensation Act for seamen not covered by provincial workers' compensation laws. In all provinces and the Yukon Territory, the legislation establishes the collective responsibility of employers to contribute to a compensation fund administered by a compensation board. In the Northwest Territories and the federal jurisdiction (seamen), employers are required to be insured. In Quebec and Ontario, employers whose employees are not covered by the Workers' Compensation fund may be compelled to insure their employees against employment injuries. Federal government employees and their dependants are entitled to compensation at the same rate and under the same conditions as are provided under the workers' compensation legislation of the province where the worker was employed.

In Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Manitoba and British Columbia, the injured workers in those industries not covered by the legislation have the right to sue for negligence against the employer under conditions more favourable than would be the case in an action at common law. Where a compensation board rules against recognition of the treatment necessary for any ailment or accident, it is de facto covered by the provincial medical care and hospital insurance plans by which over 99 per cent of the population (including resident foreign nationals and persons here on extended work permits) are covered.

The main areas where changes would be required for full compliance are in:

- extending the scope of compensation schemes to cover all employees (Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, and the Yukon and Northwest Territories);

- prescribing a definition of industrial accident to include the conditions under which a commuting accident is considered to be an industrial accident (all the above jurisdictions);

- showing that the commutation into a lump sum is made with the agreement of the injured person and according to established actuarial standards (all the above jurisdictions);

- withdrawing the possibility of commuting a periodical payment to dependants into a lump sum (all the above jurisdictions);

- ensuring that the benefits to a widow with two children are not less than the prescribed 50 per cent (Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Quebec, Saskatchewan, Yukon and Northwest Territories);

- providing for disabled persons requiring constant attendance (federal, Newfoundland, Prince Edward Island, New Brunswick, Saskatchewan, Alberta, British Columbia, Yukon and Northwest Territories further study is necessary to ascertain whether this benefit is provided in any of these jurisdictions by other mechanisms, such as social assistance and social service legislation);

- amending the provisions allowing for suspension of compensation (federal, Newfoundland, Nova Scotia, New Brunswick, Prince Edward Island, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, Yukon, Northwest Territories);

- introducing provisions to show that in case of a morbid condition the worker is entitled to medical aid that comprises at least the items enumerated in the Convention (New Brunswick, British Columbia, Yukon and Northwest Territories);

- introducing provisions requiring (rather than permitting) the board to provide medical aid in case of a morbid condition (Newfoundland, Prince Edward Island, Nova Scotia, Manitoba, Alberta, Yukon);

- making provision for home visiting and measures for rehabilitation and placement of injured seamen (federal).

CONVENTION 128: INVALIDITY, OLD-AGE AND SURVIVORS' BENEFITS
(Adopted in 1967; ratified by 12 States as of January 1, 1978)

Main Provisions

The Convention lays down standards for invalidity, old-age and survivors' benefits, of which compliance in at least one area is necessary for the purpose of ratification. In all three areas, the coverage expected is wider than in Convention 102, being extended to all employees for invalidity and old-age benefits and to the survivors of all employees in the case of survivors' benefits. Additional conditions are included;

for invalidity benefits, rehabilitation and placement requirements; for old-age benefits, protection of those not eligible at the time of introduction because of their advanced age; for survivors' benefits, improved protection for widows. In all three areas, benefits as a percentage of earnings are higher than in Convention 102, being 50 per cent for invalidity and 45 per cent for both old-age and survivors' benefits.

Canadian Position

In that Canada does not meet the requirements of Convention 102 in these areas, there is a considerable way to go in meeting the higher standards of this Convention. Although coverage and benefit levels under Canadian legislation are generally adequate, the benefit levels do not match the higher percentage of ILO standards on earnings laid down in Convention 128.

CONVENTION 130: MEDICAL CARE AND SICKNESS BENEFITS
(Adopted in 1969; ratified by 9 States as of January 1, 1978)

Main Provisions

The Convention deals only with medical care and sickness benefits. In both areas, it covers all employees, and their wives and children, as against the 50 per cent coverage required in Convention 102. It allows exceptions for casual employees, paid family workers, and various other categories of employees, as well as seafarers and public servants, who are protected by special schemes not less favourable than those required by the Convention. The scope of medical care is extended to include, among others, dental care and medical rehabilitation. The conditions for payment of sickness benefits are more specific than in Convention 102 and benefits should be 60 per cent of previous earnings as against 45 per cent prescribed in Convention 102.

Canadian Position

Overall, Canada exceeds the main provisions of the Convention. Health care delivery is primarily a provincial constitutional responsibility. All provinces and territories participate in the federal health insurance programs, so that over 99 per cent of residents of Canada are covered on a prepaid basis under provincial plans against the cost of medically necessary hospital and medical practitioners' care. (Those residents not eligible for the provincial plans are covered by other legislation, e.g., serving members of Canadian Armed Forces.) Supplementing the benefits of the federal programs, three provinces have a drug benefit program universally available to all their residents, most have drug benefit programs for the elderly, and all have drug benefit arrangements for those in need. Also, since the advent of the Medical Care Program in 1968, drug benefit programs have become much more often a feature of employee-employer contracts resulting from collective bargaining. Six provinces also have, or are implementing, children's dental programs which are universally available to children up to a

provincially determined age ceiling. In addition, dental insurance is increasingly a feature of collective agreements. It is estimated that 30 per cent of the population is covered by such negotiated third party dental insurance.

Chapter IV: General Conditions of Employment

General conditions of employment may be subdivided into four main sections, namely working time (including hours of work, rest and paid leave), wages, protection of young persons, and special conditions for women workers.

Hours of Work. The principle "of the eight-hour day and the 48-hour week" was embodied in the Hours of Work Convention, adopted at the first ILO Conference, applicable to all employees in private and public industrial undertakings (except those employing members of the same family). Ratification of this Convention was slow, and its principles not extended beyond industry until 1930. In the 1930s, the 40-hour week replaced the eight-hour day as the union demand, partly considered as a remedy for unemployment, and partly to enable workers to share in the advantages of mechanization. In 1935, the year that Canada ratified the Hours of Work Convention, the Forty-Hour Week Convention (No. 47) was adopted. This Convention, however, has received a minimum of ratifications, even by 1977 only five members having ratified.

This failure to ratify the Conventions partly because of the "threat of foreign competition" and partly because of their rigidity, was a matter of concern to the ILO in the postwar period. In 1962, a Recommendation was introduced which was more flexible than the previous Conventions in that it allowed for a progressive reduction of hours until the 40-hour week had been achieved, due regard being given to local conditions in planning such reductions. This represents the most up-to-date of the ILO efforts to deal with the question of hours of work.

So far as Canada is concerned, greater flexibility may be needed than the Conventions allow for permitting longer hours of work for seasonal work and in geographically remote areas, as well as to allow scope for the introduction of the flexible working week - or the flexible working year.

Weekly Rest. In 1921, the Weekly Rest (Industry) Convention (No. 14) was adopted providing for one day's rest in seven for industrial undertakings; this Convention was ratified by Canada. In 1957, the principle was extended beyond industrial undertakings to commerce and offices by the Weekly Rest (Commerce and Offices) Convention (No. 106). Full compliance with this Convention would require legislative changes in all but three of the jurisdictions; these three require the extension of legislation covering industrial undertakings to employees in commerce and offices.

Paid Leave. The first Holidays With Pay Convention (No. 52), adopted in 1936, established entitlement to six working days leave after one year of service. In 1970, this Convention was revised by the Holidays with Pay (Revised) Convention (No. 132), which provided for a three-week holiday

for one year of service, and the extension of coverage to include employees in agriculture. In order to comply with this Convention, the main need in Canadian legislation would be to extend the existing minimum length of vacation from two to three weeks for one year of service.

In 1974, the Paid Educational Leave Convention (No. 140) was adopted, providing for the granting of paid educational leave to workers. There is little compliance with this Convention.

Wages. In this sphere, the main objective of the ILO, apart from its statistical research and information, is to put forward standards which will oblige the Member States to establish a uniform system of wage regulation.

The first Convention dealing with wages was adopted in 1928 - the Minimum Wage Fixing Machinery Convention (No. 26) - which recommended the adoption of international rules for the creation of minimum wage-fixing machinery. This Convention, which was ratified by Canada, has been superseded by the Minimum Wage Fixing Convention (No. 131), adopted in 1970. This Convention, which requires the establishment of an all-embracing and legally enforceable system of minimum wages, is largely complied with in the various Canadian jurisdictions and the possibility of ratification is being studied.

The Protection of Young Persons. The Conventions protecting children and young persons deal with three main subjects namely minimum age, the need for medical examinations, and restrictions on night work. The Minimum Age Convention (No. 138), adopted in 1973 represents comprehensive and up to date standards and embraces and adapts the salient points of the earlier Conventions, as well as dealing with seafarers. This Convention establishes the school-leaving age as the minimum age for admission to employment, provided this is not less than 15 years. Certain provisions for dangerous employment and for light work are included in the Convention. There is substantial compliance with the Convention in Canada, except regarding the employment of children on light work.

Medical Examination. The Medical Examination of Young Persons (Industry) Convention (No. 77), the Medical Examination of Young Persons (Non-Industrial Occupations) Convention (No. 78), and the Medical Examination of Young Persons (Underground Work) Convention (No. 24) lay down the necessity of appropriate medical examinations as a condition for the employment of young persons, i.e., those under 18 in the former two categories and those under 21 in the last category. There is substantial compliance in Canada with the latter Convention, but for the first two it is general practice to use medical examinations where a specific hazard exists rather than for specific age groups.

Night Work. Night work has been generally regarded as prejudicial to the health of young persons, and the first ILO Conference adopted a Convention prohibiting night work of young persons in industrial undertakings. This was revised in 1948 by the Night Work of Young Persons (Industry) (Revised) Convention (No. 90) which abolished the exceptions which had

been allowed in the former Convention. The principle of abolition of night work in non-industrial occupations was embodied in the Night Work of Young Persons (Non-Industrial Occupations) Convention (No. 79), adopted in 1946. The main principle of these two Conventions is to provide adequate hours of rest every night. There is very little compliance with the provisions of the Convention, and all jurisdictions would require the introduction of appropriate legislation.

Labour Clauses (Public Contracts). Convention 94 seeks to ensure that workers employed on public contracts shall work under generally recognized labour conditions. For the purposes of ratification, implementation only at federal level is required; at provincial level, similar legislation would be desirable, though not necessary for ratification.

Summary. Canada's record in this area is uneven. There is substantial compliance with hours of work and weekly rest standards, although Canada does not meet the Convention requirements in the areas of paid vacations and paid educational leave. There is substantial compliance with the minimum wage-fixing machinery and the minimum age standards, although very little with the standards relating to night work for, and medical examinations of, young persons (except for those working underground).

CONVENTION 47: FORTY-HOUR WEEK
(Adopted in 1935; ratified by 6 States as of January 1, 1978)

Main Provisions

The Convention requires the ratifying country to declare its approval of the principle of a forty-hour week, and to take or facilitate appropriate measures for its introduction in such a way that the standard of living is not reduced in consequence.

In order to supplement and facilitate the implementation of the hours-of-work instruments, the ILO adopted Recommendation 116 in 1962. This states that governments should aim at establishing the social standard of a 40-hour week, by stages if necessary. Where the duration of the normal working week exceeds 48 hours, immediate steps should be taken to bring it down to 48 hours without any reduction in wages. Where it is 48 hours or less, measures should be taken to progressively reduce hours to the "social standards" of 40 hours.

"Normal hours" are defined as the number of hours in excess of which any time worked is remunerated at overtime rates. At the same time, the Recommendation states that except for cases of force majeure, limits on the amount of overtime should be determined by the competent authority.

It would seem therefore that to achieve compliance with the Convention, it would be necessary to establish the "normal work week" as 40 hours. To comply with the Recommendation would necessitate stipulating a maximum number of hours, this figure to be determined by the competent authority, but which should not exceed 48.

However, although overtime payable at a rate of time-and-a-half might offer certain attractions to some employees and employers, it seems contrary to the spirit of the Conventions, which endeavour to give workers more leisure, and inimical to the achievement of full employment as expressed in Convention 47.

Canadian Position

The present situation in Canada is as follows:

	Normal or Standard Hours		Maximum Hours	
	Per day	Per week	Per day	Per week
Federal	8	40		48
Newfoundland	-	44	Not stated	
(For store employees)	-	(40)	Not stated	
Prince Edward Island	-	48	Not stated	
Nova Scotia	-	48	Not stated	
New Brunswick	-	44	9	48
Quebec	8	45	Not stated	
Ontario	-	44	8	48
Manitoba	8	40	Not stated	
Saskatchewan	8	40	Not stated	
Alberta	8	-	8	44
British Columbia	-	40	8	44
Yukon	8	40	10	60
Northwest Territories	8	44	10	54

In all jurisdictions, there are some classes of workers excluded from the legislation, such as managerial, confidential and professional employees, agricultural, domestic and construction workers, fishermen and truck drivers and workers in isolated parts. Since it would not be practicable to insist on a 40-hour week for some of these, particularly truck drivers and isolated workers, it would not be possible for Canada to ratify the Convention. Apart from this, it would appear that the federal, Manitoba, Saskatchewan, British Columbia and the Yukon jurisdictions are in compliance with the Convention, and Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Ontario, Alberta and the Northwest Territories would need to take steps to establish the normal working week at 40 hours.

CONVENTION 14: WEEKLY REST (INDUSTRY)
(Adopted in 1921; ratified by 87 States as of January 1, 1978 (including Canada, 1935))

Main Provisions

The Convention's objective is to establish a 24-consecutive-hour rest during a seven-day period which should coincide with the designated customary day of rest and extend simultaneously to all personnel in an undertaking. Suspensions or diminutions in this norm are only permitted when all humanitarian and economic factors have been considered, and the responsible employers' and workers' association consulted. When such exceptions prove necessary, each state shall provide for a compensatory period of adequate duration. Employers must inform their staff, by conspicuously posted notices, of the periods of collective rest and where such times are staggered, the methods by which the periods are calculated.

The Convention applies to public or private undertakings including mines, various manufacturing processes, construction and demolition, transportation, and stevedoring. Single family industrial undertakings are exempted.

Canadian Position

Canada ratified this Convention in 1935.

CONVENTION 106: WEEKLY REST (COMMERCE AND OFFICES)
(Adopted in 1957; ratified by 43 States as of January 1, 1978)

Main Provisions

The purpose of the Convention is to ensure an uninterrupted rest period of 24 hours in each period of seven days for employees in commerce and offices. Whenever possible this should be granted simultaneously to all persons concerned in each establishment and should coincide with the day of the week established traditionally as the day of rest. It covers workers and apprentices in trading establishments, institutions and administrative agencies involving office work, mixed commercial and industrial establishments, post and telecommunication services, newspaper undertakings and theatres and places of public entertainment.

Special weekly rest schemes may be applied to specified categories of persons or types of establishment where the nature of the work, the size of the population, the number of employees, the type of establishment and social and economic considerations would justify it. Temporary exemptions may be allowed in special emergencies, abnormal pressure of work, or in order to prevent the loss of perishable goods,

provided that the representative employers' and workers' organizations are consulted. Any worker deprived of his rest days shall receive the cumulative equivalent when circumstances permit. Appropriate measures of inspection shall be established to ensure enforcement.

Canadian Position

Except in Ontario, where the only employees covered by legislation in this matter are hotel and restaurant employees, and Nova Scotia where the Labour Standards Code does not apply to trading establishments and offices in this matter, employees in commerce and offices are covered by acts which also cover other workers.

In all jurisdictions except Newfoundland and British Columbia, there exists "Lord's Day" legislation which has a regulatory effect on Sunday employment. In Prince Edward Island and Ontario, the Minister has power to fix the days of labour in any industry, and in Ontario the One Day's Rest in Seven Act applies to hotel and restaurant workers in cities and towns having a population of 10,000 or more.

To comply:

- the federal, Newfoundland, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, and Yukon and Northwest Territories' jurisdictions would require a provision to limit managerial exclusions to those in high managerial positions;

- Ontario would need to extend coverage to other than hotel and restaurant employees, and to make its One Day's Rest in Seven Act cover all such employees;

- Quebec would need to extend coverage of Ordinance 14 pertaining to the Retail Food Trade to cover all employees and make provision for compensatory leave where circumstances have necessitated temporary exemptions;

- Prince Edward Island and Nova Scotia would require legislation establishing a weekly day of rest for all employees in commerce and offices.

CONVENTION 132: HOLIDAYS WITH PAY (REVISED)
(Adopted in 1970, ratified by 12 States as of January 1, 1978)

Provisions

The Convention applies to all employed persons (including those employed in agriculture) with the exception of seafarers. Its basic requirement is for an annual paid holiday of a minimum of three working weeks for one year of service. The Convention contains a number of supplementary provisions relating to coverage, administration and enforcement.

Canadian Position

All jurisdictions establish a minimum annual holiday of at least two weeks for one year of service, at not less than the normal rate of pay. Manitoba and the Northwest Territories provide for a three-week vacation after five years' service and the federal jurisdiction after six years. Saskatchewan provides for a three-week vacation for one year of employment, and a four-week vacation after ten years by July 1, 1978. Only in the federal and Newfoundland jurisdictions is the coverage complete, agricultural, horticultural, domestic and professional workers being among the main exclusions in the other jurisdictions.

There are discrepancies in Canadian legislation regarding some of the supplementary provisions, such as:

- a period of entitlement in excess of six months (federal, Newfoundland, Prince Edward Island, Nova Scotia, Saskatchewan, Alberta and British Columbia);

- allowing vacations to be waived or postponed beyond one year (federal, Newfoundland, Prince Edward Island, Nova Scotia, Ontario, Manitoba, Saskachewan, Alberta, the Yukon and Northwest Territories);

- not extending the vacation by one day when it spans a public holiday (New Brunswick, Quebec, Ontario, Alberta and the Northwest Territories).

CONVENTION 140: PAID EDUCATIONAL LEAVE
(Adopted in 1974; ratified by 11 States as of January 1, 1978)

Main Provisions

The Convention provides for the granting of paid educational leave to workers. Member States are required to develop policies to promote the granting of such leave for training at any level, as well as for general, social, civic and trade union education. The policies should aim at: the acquisition, improvement and adaptation of occupational and functional skills; workers' participation in the affairs of the undertaking and the community; their social and cultural advancement; and the promotion of appropriate continuing education and training, helping workers to adjust to contemporary requirements. Particular attention should be given to special categories of workers, such as the underprivileged and those who left school at an early age. The objective may be achieved either by national laws and regulations or by collective agreements, arbitration awards or other means. Public authorities, employers' and workers' organizations, as well as educational associations and institutions should be associated with the formulation and application of the policy.

Canadian Position

There is little compliance with the Convention in Canada and no jurisdiction has legislation on its subject matter. The public services of most jurisdictions do have policies of paid educational leave for their employees, and educational leave is also provided on a voluntary basis by many employers but mainly for managerial, technical and professional staff. As yet, very few collective agreements have provisions for paid educational leave.

CONVENTION 131: MINIMUM WAGE FIXING
(Adopted in 1970; ratified by 23 States as of January 1, 1978)

Main Provisions

The Convention requires the establishment of a legally enforceable system of minimum wages which covers practically all groups of wage earners, as determined by the competent authorities, in agreement or after full consultation with representative organizations of employers and workers concerned.

Abatement of minimum wage or any other failure to comply would render the person(s) concerned liable to penal or other sanctions. Appropriate administrative and enforcement machinery shall be established.

The determination of the minimum wage shall take into account such factors as the needs of workers and their families, the general level of wages, the cost of living, social security benefits, and economic factors, as well as requirements of economic development, levels of productivity and the desirability of obtaining and maintaining a high level of employment.

Canadian Position

Canadian law and practice appear to conform with the requirements of the Convention, except for those jurisdictions which under specific conditions, allow lower wages than those generally determined to be minimum wages.

Exemption of certain categories of workers, such as the handicapped, part-timers, students, and apprentices by some jurisdictions is permitted by the Convention. However, the Convention states that minimum wages shall not be subject to abatement; accordingly there is some question whether the clauses which allow either a Board (as in Prince Edward Island and Alberta) or a Minister (as in New Brunswick) to authorize the payment of wages below the stipulated minimum are completely in line with the Convention's requirements. This point needs further exploration.

CONVENTION 26: MINIMUM WAGE-FIXING MACHINERY
(Adopted 1928; ratified by 89 States as of January 1, 1978 (including Canada, 1935))

Main Provisions

The scope of the Convention is to cover those workers employed in certain trades and parts of trades (home work) where wages are extremely low and where no arrangements exist for their effective regulation by collective agreement or otherwise. Each ratifying Member shall be free to decide the nature and form of its minimum wage-fixing machinery, provided that representatives of workers' and employers' organizations are consulted. Fixed wage-rates cannot be subject to abatement by individual nor collective agreement except with the authorization of the competent authority.

Each ratifying Member shall establish a system of supervision and sanctions to inform both workers and employers of minimum wage rates and to ensure their enforcement. Where a worker has been underpaid, he shall be entitled to recover the amount owing through legal proceedings. Each State shall submit annually to the International Labour Office a list indicating in which trades and in which manner the system of wage-fixing is applied.

Canadian Position

Canada ratified the Convention in 1935.

CONVENTION 99: MINIMUM WAGE-FIXING MACHINERY (AGRICULTURE)
(Adopted in 1951; ratified by 42 States as of January 1, 1978)

Main Provisions

The Convention aims at the establishment of minimum wage-fixing machinery for workers employed in agriculture and related undertakings, with the exception of family members. Each ratifying Member shall consult on an equal basis with workers' and employers' representatives in deciding the occupations to which and the manner in which such a wage-fixing apparatus shall be applied.

Where a partial payment of minimum wages is in the form of allowances in kind, measures shall be taken to ensure that such allowances are fair and reasonable and appropriate for the personal use and benefit of the worker and his family. Once fixed, such wage rates shall not be subject to abatement, except where necessary to prevent curtailment of employment opportunities to physically or mentally handicapped workers. Appropriate systems of supervision, information and enforcement shall be established. Where a worker has been underpaid, he shall be entitled to recover the amount owing through legal proceedings.

Each ratifying country shall submit annual reports to the International Labour Office concerning the occupations and workers covered, the actual rates of minimum wages and the manner of fixing and applying these standards.

Canadian Position

Farm labour is excluded from minimum wage legislation in all provinces except Newfoundland. In Ontario and Nova Scotia this exclusion is limited to farming proper, certain farm-related occupations being covered. Fruit, vegetable and tobacco harvesters are covered by the minimum wage in Ontario. Persons in Manitoba who are employed in selling horticultural or market garden products grown by another person are covered. In Saskatchewan, minimum wage rates apply to egg hatcheries, greenhouses, nurseries and brush-clearing operations, and in Alberta and Prince Edward Island to farm workers employed in commercial undertakings.

The federal government would be in compliance in that the only agricultural workers under its jurisdiction are those employed by the government, who would be covered by collective agreements negotiated under the Public Service Staff Regulations Act, and minimum wage-fixing machinery is not necessary.

CONVENTION 95: PROTECTION OF WAGES
(Adopted in 1949; ratified by 76 States as of January 1, 1978)

Main Provisions

The Convention seeks to protect the worker against practices rendering him unduly dependent on his employer and to ensure that he receives promptly and in full the wages he has earned. To this end, it requires that wages be paid directly to the worker in money; this should be in legal tender, but may be by bank or postal cheque or money order where such is customary or agreed upon. Compelling workers to use company stores is prohibited. It also regulates permissible deductions from wages, attachment or assignment of wages, and establishes the privileged character of wages in bankruptcy and the judicial liquidation of an undertaking. It requires regularity of payment of wages, timely settlement of all wages upon termination of employment, and the informing of workers regarding conditions governing their wages.

The Convention applies to all persons to whom wages are paid although a government may make certain exclusions (some categories of non-manual labour and domestic or similar service).

Canadian Position

Some requirements of the Convention are implemented as a matter of course and do not require further legislative action; for the other requirements, there is considerable legislation compliance. However, only in the federal, Nova Scotia, Ontario and Yukon jurisdictions is coverage complete, employees in farming, fishing and/or logging being the main exclusions in the other jurisdictions.

To comply fully, it would be necessary:

- to introduce a provision specifying that the form of payment must be in legal tender or by bank cheque, postal cheque or money order in certain circumstances according to prescribed law, collective agreement or arbitration award (the federal jurisdiction, Prince Edward Island, New Brunswick, Alberta, and the Yukon Territory);

- to introduce provisions ensuring that wages be paid directly to the worker, and prohibiting limitations on his freedom to dispose of his wages (the federal jurisdiction, Prince Edward Island, New Brunswick, Ontario, Manitoba, Alberta, and the Northwest Territories);

- to introduce legislation pertaining to permissible deductions from wages (the federal jurisdiction, Prince Edward Island, Nova Scotia, New Brunswick, and the Northwest Territories; in the case of Quebec, to extend the relevant provision in its minimum wage legislation to apply to all wages); to attachment of wages (Nova Scotia), and to assignment of earnings (Newfoundland, Prince Edward Island, Quebec, Manitoba, Alberta, and the Yukon);

- to ensure that the worker is treated as a privileged creditor in regard to his wages earned prior to bankruptcy (Quebec and British Columbia);

- to ensure the regularity of wage payments (the federal jurisdiction, Quebec and Ontario);

- to provide information to workers about conditions of payment (Quebec).

CONVENTION 138: MINIMUM AGE FOR EMPLOYMENT
(Adopted in 1973; ratified by 11 States as of January 1, 1978)

Main Provisions

The objective is to establish international standards concerning minimum age for admission to employment which would be of general application to all sectors of economic activity. These would gradually replace the existing standards applicable to limited economic sectors and thus achieve the total abolition of child labour. The Convention also seeks to improve conditions of work for young people.

The Convention establishes as the minimum age for admission to employment the age of completion of compulsory schooling and, in any case, an age of not less than 15 years. For dangerous employment, the minimum age shall not be less than 18 years, except where the young persons are fully protected and adequately instructed. Employment of young persons under 15 years is permissible for light work but under specified conditions, and only to a minimum age of 13 years. Detailed registers are to be kept by the employer, indicating names, ages and birthdates of all employees under 18 years.

Canadian Position

Although the various jurisdictions are in substantial compliance with the general requirements of the Convention, none fully complies. All jurisdictions have legislation, usually concerning industrial and non-industrial employment and work in mines and quarries, dealing with minimum age for admission to employment.

Compliance would be achieved by:

- bringing the minimum age for employment in line with the school-leaving age (Nova Scotia, Ontario, Alberta, the Yukon and Northwest Territories) - in the case of seafarers, the school-leaving age of the province of residence (federal);

- ensuring that the minimum age for employment considered harmful to health or safety be at least 18 years (all jurisdictions);

- prohibiting any kind of employment under 13, and introducing appropriate regulations for employment on light work for those below school-leaving age (all jurisdictions);

- introduction of measures to ensure keeping of records of employees under 18 (federal, Manitoba and the Yukon Territory);

- implementing the provisions of the Convention for agricultural workers (all jurisdictions).

CONVENTION 77: MEDICAL EXAMINATION OF YOUNG PERSONS (INDUSTRY)
(Adopted in 1946; ratified by 30 States as of January 1, 1978)

CONVENTION 78: MEDICAL EXAMINATION OF YOUNG PERSONS
(NON-INDUSTRIAL OCCUPATIONS)
(Adopted in 1946; ratified by 28 States as of January 1, 1978)

Main Provisions

The Conventions prohibit the employment of young persons under the age of 18 years unless they have been medically examined by a qualified physician and certified fit for the work on which they are to be employed. Their continued employment must be subject to medical re-examination at intervals of not more than one year, and in case of occupations involving high health risks, such examinations must continue until they attain the age of 21. These examinations must not involve any expense to the young persons or their parents. Young persons found unfit for certain types of employment must have access to vocational guidance and physical and vocational rehabilitation. The employer must file the medical certificates and keep them available for labour inspectors.

Convention 77 applies to young persons working in industrial undertakings, which term includes: mining and quarrying, manufacturing, construction and transportation. Convention 78 applies to non-industrial occupations (i.e., all occupations other than industrial, agricultural, or maritime). (Young persons employed underground in mines are covered by Convention 124 (see below) - but not those employed on the surface).

Canadian Position

None of the jurisdictions has legislation of a general nature requiring a medical examination prior to employment and periodic re-examination for all young persons under 18 years. Under the Nova Scotia Education Act, a young person under 16 years of age, in order to obtain exemption from school attendance, may be required to undergo a medical examination certifying his fitness for employment, but no provision is made for re-examination, nor is there any directive as to who shall bear the cost. In Quebec, young factory workers may be examined by a physician, who may recommend their discharge on health grounds. Manitoba and Alberta require apprentices to produce a certificate of physical fitness.

The requirements of Convention 77 are partially fulfilled by sundry acts and regulations requiring medical examination under certain defined circumstances. The Newfoundland Workmen's Compensation Act requires medical examinations to determine whether a workman is affected by an industrial disease. Most jurisdictions contain legislation or regulations (e.g., the Canada Dangerous Substances Regulation) requiring periodic medical examination of employees engaged in the use of dangerous substances or equipment. These apply to all employees and only incidentally to young persons. It is general practice in Canada to use medical examinations where a specific hazard exists, rather than for specific age groups.

To comply fully, all jurisdictions would require measures applicable to industrial undertakings and non-industrial occupations covering all employees under 18 years, and under 21 years in case of occupations with high health risk. Such legislation should cover all aspects of the Conventions namely: medical examination prior to employment; re-examination at intervals of not more than 12 months; that the expenses shall not be borne by the young persons or their parents; vocational guidance and rehabilitation measures; and the maintenance of records of medical examinations.

CONVENTION 124: MEDICAL EXAMINATION OF YOUNG PERSONS (UNDERGROUND WORK) (Adopted in 1965; ratified by 30 States as of January 1, 1978)

Main Provisions

The Convention applies to persons under 21 years of age employed underground in mines and quarries. All such persons must undergo a thorough medical examination prior to employment underground and periodic re-examination at intervals not greater than one year. The examination, which must include an X-ray film of the lungs, must be certified and shall not involve the young person or his parents in any expense. The employer must keep available for the inspectors and a worker's representative: (1) the date of birth, (2) an indication of the nature of the occupation of the young person, (3) a certificate attesting fitness for employment, but not containing the medical data.

Canadian Position

There is quite substantial compliance in Canada with the provisions of this Convention. Except in Prince Edward Island (where there are no mines), all jurisdictions have passed legislation pertaining to medical examination for underground work in mines, although the legislation does not generally distinguish between the young and other workers. Most jurisdictions include quarries in their definition of "mine."

The main areas where action is necessary are:

- making records available to workers' representatives (all jurisdictions except Prince Edward Island);

- establishing some specification as to the content of the records (Newfoundland, Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, the Yukon and Northwest Territories);

- improvement of the provisions relating to medical examinations and annual re-examinations (Nova Scotia, Saskatchewan, and Alberta).

CONVENTION 90: NIGHT WORK OF YOUNG PERSONS (INDUSTRY) (REVISED)
(Adopted in 1948; ratified by 38 States as of January 1, 1978)

CONVENTION 79: NIGHT WORK OF YOUNG PERSONS (NON-INDUSTRIAL OCCUPATIONS)
(Adopted in 1946; ratified by 16 States as of January 1, 1978)

Main Provisions

Although Conventions 90 and 79 are similar in their purpose, they differ in some of their provisions, and seek to achieve two objectives, namely; to provide 12 consecutive hours of rest every night, and to establish a period at night (normally from 10 p.m. to 6 a.m.) during which work shall be prohibited altogether for persons of 18 years and under. This would allow a young person to work as late as 10 p.m. provided he then has 12 consecutive hours of rest until 10 a.m. the next morning: or to start work as early as 6 a.m. provided he had ceased work at 6 p.m. the night before.

Canadian Position

Legislation in Canada falls considerably short of ILO requirements in that several jurisdictions have no legislation concerning night work, and those that have do not provide for a nightly rest of 12 consecutive hours, except Quebec (in the case of industrial occupations).

Since the minimum age for employment in various jurisdictions in Canada is 15 years or higher, the problem of night work for those below this age does not arise except for those children permitted to do light work under prescribed conditions. Basically the problem is narrowed to those between 16 and 18 years, which area is also of concern to the ILO.

To meet the main requirements of the Convention, Prince Edward Island, New Brunswick, British Columbia, and the Yukon would need to enact legislation applying to all persons under 18, prohibiting their employment between 10 p.m. and 6 a.m. (or an alternative better standard), and requiring a nightly rest of at least 12 consecutive hours. The federal, Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia, the Yukon and Northwest Territories jurisdictions would need to provide for a nightly rest of at least 12 consecutive hours, and Quebec would need to extend its legislation to cover non-industrial occupations.

CONVENTION 94: LABOUR CLAUSES (PUBLIC CONTRACTS)
(Adopted in 1949; ratified by 47 States as of January 1, 1978)

Main Provisions

The Convention seeks to ensure protection of workers employed under public contracts. The contracts covered are those awarded by a central authority for the construction, alteration, repair or demolition of public works; the manufacture, assembly, handling or shipment of materials, supplies or equipment; or the performance or supply of services. It provides that such contracts shall include clauses guaranteeing wages, hours of work and other conditions of labour no less favorable than those established for work of the same character in the trade or industry concerned in the district where the work is carried out. Adequate publicity must be given to relevant instruments, records and inspection systems.

After consultation with appropriate organizations of employers and workers, exemptions may be granted for contracts below a limit fixed by the competent authority, or for persons occupying managerial, technical, professional or scientific positions, whose conditions of work are not regulated by measures referred to above.

Canadian Position

Although the Convention stipulates that it refers only to contracts entered into by the central authority, it provides that this authority shall determine the extent to which the Convention shall be applied to contracts awarded by other public authorities.

The federal, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan and British Columbia jurisdictions have enacted special legislation in this field. In other jurisdictions, which do not have such special legislation, workers employed under public contracts are of course subject to the protection of general labour legislation.

To correspond with the Convention's provisions, the federal, New Brunswick, Quebec, Ontario and British Columbia would need to extend the coverage of their existing legislation to include the manufacture, assembly, handling or shipment of materials, supplies or equipment, and the performance or supply of services. In Manitoba and Saskatchewan the legislation relates only to construction while Newfoundland, Prince Edward Island, Nova Scotia, Alberta, the Yukon Territory and the Northwest Territories do not have legislation provisions of the type set out in the Convention.

Chapter V: Occupational Safety & Health

The "protection of the worker against sickness, disease and injury arising out of his employment" is a vast area which is constantly changing with the introduction of new methods of production and the use of new substances. Although there are relatively few Conventions in this field, the implications of each one are great, and compliance may be difficult in view of the complications in the technical standards involved.

The subject can be divided into two broad areas: safety and health.

Safety. Apart from the Dock Work Convention, which is discussed in Chapter VI[2], there are two safety Conventions to be considered. The Guarding of Machinery Convention (No. 119), adopted in 1963, prohibits the sale, hire, transfer, etc. and use of dangerous machinery. Canada does not comply with the prohibitions relating to sale, hire, etc., but the prohibition of the use of inadequately guarded machinery is almost fully complied with and would need only a limited amount of action in five of the jurisdictions.

The Maximum Weight Convention (No. 127), adopted in 1967, is one for which legislation would be necessary in several of the provinces. Complete compliance is not likely to be an object of policy in Canada since the Convention calls for different limits on loads for men and women, and such special protective measures for women are now regarded as discriminatory.

Health and Hygiene. Most of the Health Conventions are of comparatively recent adoption, being necessitated by new developments, particularly in the chemical industry.

The introduction in 1960 of the Radiation Protection Convention (No. 115) was necessitated by the increasing danger of radiation in industry. The Convention lays down standards for the protection of workers against ionizing radiation. It is fully implemented in three jurisdictions, but further legislation is necessary in the others to achieve full compliance.

The Benzene Poisoning Convention (No. 136) seeks to provide protection against the harmful effects of benzene and its provisions are covered to a reasonable extent by legislation dealing with dangerous substances in general, although there is limited compliance with the prohibition on the employment of pregnant women, nursing mothers and young persons. Since legislation on the latter might be interpreted as

---

[1]For a fuller discussion of these Conventions, see the Labour Canada publication, Where Canada Stands, Vols. I & II. (Labour Canada, 1976.)

[2] See below, pp. 75-76.

discriminatory, complete compliance would not be an object of policy. However, there are still areas for action to be taken in other protective aspects of the Convention.

The Occupational Cancer Convention (No. 139) will be more difficult to implement and will require co-ordinated action on the part of the federal and provincial authorities, particularly in the drawing up of lists of carcinogens and in implementing a Canada-wide system of records of exposed workers.

There is no special legislation for commercial and office workers, but since they are covered by the same legislation as blue-collar workers, there is a considerable degree of compliance with the Hygiene (Commerce and Offices) Convention (No. 120). Full compliance with the Convention should be attainable.

Summary. Apart from those sections of the Convention which might be considered as discriminatory, there is a considerable degree of compliance with the safety and health Conventions, the Occupational Cancer Convention requiring the greatest amount of attention.

CONVENTION 119: GUARDING OF MACHINERY
(Adopted in 1963; ratified by 35 States as of January 1, 1978)

Main Provisions

The Convention prohibits the sale, hire, transfer and exhibition, as well as the use, of machinery without appropriate guards. It applies to all power-driven machinery, new or second hand and to all branches of economic activity, although the ratifying country may limit its application to undertakings or branches of economic activity where machinery is extensively used. Its main concern is to protect those using machinery for occupational purposes, the actual user of the machinery being subject to a more general prohibition than that of the vendor, lessor, etc.; the parts which the latter must guard are limited to certain specified areas, whereas the former is prohibited from using machinery, "any dangerous par of which," including the point of operation, is without appropriate guards.

Canadian Position

The implementation of the provisions relating to sale, hire, etc., is within the jurisdiction of the provinces while the implementation of those relating to use is within both federal and provincial jurisdictions. The practical difficulties in enforcing appropriate legislation on the sale, hire, etc., of unguarded machinery have apparently made the provinces cautious of introducing appropriate measures and consequently there is little implementation of this section.

On the other hand, the prohibition of the use of inadequately guarded machinery is generally complied with, the only actions required being the strengthening of Prince Edward Island's legislation by placing more explicit obligations upon the employer; and in the federal, Prince Edward Island, New Brunswick and Manitoba jurisdictions, improving the provisions enjoining employers to provide adequate information of the dangers involved and the precautions to be taken.

The Northwest Territories require the introduction of measures dealing with all provisions of the Convention.

CONVENTION 127: MAXIMUM WEIGHT
(Adopted in 1967; ratified by 19 States as of January 1, 1978)

Main Provisions

The Convention provides that no worker may transport a load likely to jeopardize his health or safety, and that, as far as possible, suitable technical devices be used to limit or facilitate the manual transport of loads. Workers should receive adequate training or instruction in working techniques prior to the carrying of loads, and the assignment of women and young workers to the manual transport of other than light loads should be controlled.

Canadian Position

Most jurisdictions have general legislative provisions prohibiting the employment of workers in a way that would endanger their safety or health, without specifying the carrying of heavy loads in this category. The latter stipulation is contained only in the federal, Prince Edward Island, Quebec and Ontario legislations.

It is doubtful whether Canada should advocate the introduction of special protective measures for women and young workers. Since the Convention states that no worker (presumably male or female, irrespective of age) shall be permitted to carry a load likely to jeopardize his (or her) health, this makes irrelevant the provision stipulating that women and young workers should only carry light loads. In view of the differing physiques of workers, it would be unwise, and possibly discriminatory, to establish a priori maximum weight limits according to the sex or age of the workers concerned, but would be preferable to assess each assignment individually.

With this reservation, the federal, Prince Edward Island, Quebec and Ontario jurisdictions are in compliance. Newfoundland, Saskatchewan, Alberta, British Columbia, the Yukon and Northwest Territories do not have any specific legislative provisions relevant to the subject matter of the Convention.

Nova Scotia and New Brunswick have no provision to prohibit the manual transport of a load which by reason of its weight would be likely to jeopardize the employee's safety. Manitoba has such a provision for women, children and adolescents and would need to extend this to adults. Manitoba would also need the introduction of measures providing for the use of suitable technical devices, as well as for the instruction of workers in the correct carrying of manual loads.

CONVENTION 115: RADIATION PROTECTION
(Adopted in 1960; ratified by 32 States as of January 1, 1978)

Main Provisions

The Convention requires effective protection of workers against ionizing radiation emanating from radioactive substances and radiation-emitting devices. It establishes certain standards regarding maximum permissible doses of radiation, protection of young workers, establishment of necessary warnings and precautions, monitoring procedures, medical examination, and prohibitions on the employment of workers previously exposed.

Canadian Position

Protection from radiation emanating from radioactive substances and in the production of radiation-emitting devices are federal concerns, but the installation and use of radiation-emitting devices are under both federal and provincial jurisdictions. The Convention is fully implemented by statutory provisions and regulations in the federal, Ontario and Manitoba jurisdictions.

The main areas where changes would be necessary for the other jurisdictions to comply are in:

- restricting the exposure of workers to the lowest practical level (Nova Scotia and Quebec);

- establishing and periodically reviewing the maximum permissible doses of radiation for workers aged 18 and over and for those under 18 (Prince Edward Island, Nova Scotia, Quebec and British Columbia);

- extending the present provision protecting workers on a limited range of equipment to cover all workers subject to radiation (Alberta).

- providing adequate protection from incidental exposure (Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Alberta, British Columbia);

- prohibiting the employment of persons under the age of 16 years (Prince Edward Island, Nova Scotia, New Brunswick, Alberta, British Columbia);

- providing suitable hazard warnings and other precautions, as well as information and instruction to workers (Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Saskatchewan, British Columbia);

- notifying the authorities of the installation and use of hazardous devices (Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Quebec, British Columbia), and of instances of overexposure (Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Saskatchewan, British Columbia);

- prohibiting the employment of a worker contrary to medical advice (Prince Edward Island, Nova Scotia, New Brunswick, Quebec, Saskatchewan, British Columbia).

The Yukon and Northwest Territories would need to introduce legislation covering all aspects of the Convention within their territorial jurisdictions in order to comply.

CONVENTION 136: BENZENE
(Adopted in 1971; ratified by 21 States as of January 1, 1978)

Main Provisions

The Convention seeks to protect workers from the harmful effects of benzene, by prohibiting its use in certain work processes and requiring substitute products where available, as well as protective measures such as the prevention of excessive concentration of vapour in the air, medical examination of workers, marking of containers and provision of necessary safety and health instructions. It also requires a prohibition on the employment of pregnant women, nursing mothers and young workers in benzene processes.

Canadian Position

Without dealing specifically with benzene but with dangerous substances in general, most of the jurisdictions cover the provisions of the Convention to a reasonable extent (legislation in Nova Scotia, Quebec, Ontario and Saskatchewan specifically deals with benzene). The federal position is that outright prohibition of benzene and products containing benzene is not necessary provided that safe methods of work are adopted, and in this respect, all jurisdictions are in compliance.

There is also general compliance with the provision for the removal of vapour from the air, and almost total compliance with the provision of personal protective measures (the exceptions being Quebec and the Yukon).

There is almost no compliance with the provision prohibiting the employment of pregnant women, nursing mothers and young persons. However, it is felt by the federal authorities that such compliance is achieved in another way where there is a reasonable safeguard against the employment of persons certified as medically unfit for such work. In fact, outright prohibition of pregnant women might be interpreted as discrimination. In that the federal jurisdiction provides for pre-employment medical examination as a result of which the employment of pregnant women, nursing mothers and young persons would usually be prohibited, it would claim that this was sufficient to comply with the requirement re pregnant women, etc. However, no other jurisdiction provides for pre-employment medical examinations, and such provisions would be necessary in order to comply.

Compliance would also require the introduction of provisions for the use of harmless or less harmful products (in Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Ontario, Alberta, Yukon); specifying a maximum allowable concentration of 25ppm. In the air of work places; and the marking of containers (in Prince Edward Island, Nova Scotia, New Brunswick, Manitoba, and the Yukon for both provisions); and providing safety and health instructions to workers (in Prince Edward Island, Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Alberta and the Yukon). The Northwest Territories would need provisions implementing the whole of the Convention.

CONVENTION 139: OCCUPATIONAL CANCER
(Adopted in 1974; ratified by 11 States as of January 1, 1978)

Main Provisions

The Convention is concerned with the prohibition or control of carcinogenic substances and agents, such substances and agents to be periodically determined by the competent authority, and all carcinogenic substances and agents are to be replaced where possible by non-carcinogenic or less harmful ones. Provisions also refer to the protection of workers and the keeping of records, and the instruction and medical examination of workers, both during and after their employment.

Canadian Position

The present degree of compliance with the Convention is minimal. In view of the seriousness and complexity of the subject and considering the mobility of the Canadian population between jurisdictions, effective application of the Convention would require a co-ordinated action on the part of the federal and provincial authorities. Such co-ordination would be particularly useful in:

- meeting the basic requirement of the Convention, namely the drawing up of lists of carcinogenic substances and agents to which exposure is prohibited or controlled, and in agreeing upon amendments to those lists as the need arose; and

- the implementation of a Canada-wide system of records of the exposure of workers to carcinogenic substances and agents. (No jurisdiction complies with either of these requirements.)

Some uniformity could also be established through such co-ordination in:

- the prohibition of the use of harmful substances when a less harmful one can be used (Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, and Alberta do not comply);

- establishing appropriate medical examinations both during and after employment (no jurisdiction complies); and

- ensuring that all exposed workers are provided with all available information of the dangers involved and the measures to be taken (no jurisdiction stipulates such measures for carcinogenic substances, although the federal, Newfoundland, Quebec and Ontario jurisdictions have measures for dangerous substances in general; and the federal, Ontario, Manitoba and Alberta jurisdictions provide measures relating to radiation hazards).

The Yukon and Northwest Territories would need measures to comply with all provisions of the Convention.

CONVENTION 120: HYGIENE (COMMERCE AND OFFICES)
(Adopted in 1964; ratified by 38 States as of January 1, 1978)

Main Provisions

The Convention requires that premises used by those employed in commerce and offices should be properly maintained and kept clean, and provided with efficient and suitable ventilation and lighting, a comfortable and steady temperature, sufficient working space, sufficient supply of wholesome drinking water, suitable washing and changing facilities, and seating, and adequate first-aid facilities. Workers should be protected against harmful substances or processes, and noise and vibration reduced as far as possible. Underground or windowless premises should also meet the appropriate hygiene standards.

Canadian Position

Although no jurisdiction has specific legislation covering commercial and office workers as such, these workers enjoy the same standards of protection as blue-collar workers, and there is a considerable degree of compliance with the provisions of the Convention. To achieve full compliance in Canada, measures would be necessary in:

- requiring premises, besides floors and equipment, to be properly maintained and kept clean; providing wholesome drinking water; providing suitable and adequate washing facilities and sanitary conveniences (Newfoundland, Saskatchewan, Alberta and the Yukon);

- providing suitable and sufficient ventilation (federal, Newfoundland, Alberta and the Yukon);

- ensuring suitable temperature (federal, Newfoundland, Nova Scotia, New Brunswick, Quebec, Saskatchewan, Alberta and the Yukon);

- guaranteeing sufficient and suitable working space (Newfoundland, Nova Scotia, Saskatchewan, Alberta and the Yukon);

- providing sufficient and suitable seating (federal, Newfoundland, Manitoba, Saskatchewan, Alberta, British Columbia, and the Yukon);

- providing suitable facilities for changing, and for leaving and drying clothing (Newfoundland, Nova Scotia, Quebec, Ontario, Manitoba, Saskatchewan, Alberta and the Yukon);

- providing appropriate standards of hygiene and illumination for underground and windowless premises (federal, Newfoundland, Prince Edward Island, Nova Scotia, New Brunswick, Saskatchewan, Alberta, British Columbia and the Yukon); and

- reducing the harmful effects of noise and vibration (the Yukon).

The Northwest Territories would need to make regulations on all matters covered by the Convention to achieve compliance.

Chapter VI: Labour Administration

The effectiveness of labour legislation is largely dependent upon the existence of an efficient labour administration, which would include labour inspection and information and research services.

Labour Inspection. The Labour Inspection Convention (No. 81) and the Labour Inspection (Agriculture) Convention (No. 129) lay down specific requirements for a labour inspection service. Generally speaking, Canada complies administratively with those requirements for the non-agricultural sector, although they are not embodied in legislation. The paucity of legislation covering agricultural workers would make compliance with the latter Convention meaningless.

Information and Research Service. The Statistics of Wages and Hours of Work Convention (No. 63), which has been ratified by Canada, provides standards for compiling such statistics for the mining, industrial manufacturing and agricultural sectors. The Convention, however, needs revising in order to bring it more up to date.

Tripartite Consultation. The Tripartite Consultation (International Labour Standards) Convention (No. 144) seeks to involve employers' and workers' organizations in the process of implementing ILO standards. This Convention is under consideration.

CONVENTION 81: LABOUR INSPECTION
(Adopted in 1947; ratified by 91 States as of January 1, 1978)

Provisions

The Convention calls for a system of labour inspection designed to secure the enforcement of legislation relating to conditions of work and protection of workers. Labour inspection should be placed under the supervision and control of a central authority which may be federal or provincial. The Convention also lays down specific requirements on powers, function and status of inspectors, collaboration with other bodies, professional secrecy and conflict of interest, notification of accident and reporting, and other aspects of inspection.

Canadian Position

Although labour inspection plays a basic role in the enforcement of labour legislation in the various Canadian jurisdictions, there are difficulties in the way of Canadian compliance with this Convention. The main difficulty is that none of the jurisdictions has a "central" inspection service as envisaged by the Convention; each has a number of separate inspection services designed to administer separate pieces of legislation. It can be argued that this would not be a violation of the Convention if all these inspection services complied with all the other provisions of the Convention. However, the requirement that each of the many services match completely the requirements of the Convention would be difficult to guarantee.

Apart from this difficulty, the major requirements of the Convention seem to be met in Canada, if not by legislation then by administrative policy and practice. One shortcoming has to do with the authority of inspectors to enter premises at any time of day or night; this is in fact recognized in all jurisdictions but the Convention's requirement to have it legislatively decreed exists only in British Columbia, Ontario and Quebec.

There are other disparities, minor in nature, but covering considerable ground, where it appears that administrative practice is closer to the Convention than the examination of the legislation indicates. It is doubtful whether the insignificant improvements made in the services by bringing the legislation in line with administrative practice would merit the considerable effort which this task would require.

CONVENTION 129: LABOUR INSPECTION (AGRICULTURE)
(Adopted 1969; ratified by 18 States as of January 1, 1977)

Main Provisions

The objective of the Convention is the establishment and maintenance of an agricultural system of labour inspection similar to that in industry as outlined in Convention 81, but adapted to agricultural conditions. "Agricultural undertaking" is broadly defined and includes cultivation, animal husbandry, forestry, horticulture and the primary processing of agricultural products. The following categories of persons are covered: tenants, sharecroppers, members of a co-operative, family workers and apprentices. Where necessary, the competent authority in consultation with employers' and workers' representatives, may define the extent of agricultural activities.

Canadian Position

Compliance with the Convention would encounter similar difficulties to those for compliance with Convention 81. Apart from this, the scope of existing legislation covering agricultural workers is too limited to warrant the provision of labour inspectorates.

CONVENTION 63: STATISTICS OF WAGES AND HOURS OF WORK
(Adopted in 1938; ratified by 32 States as of January 1, 1977 (including Canada, 1946))

Main Provisions

The Convention deals with the methods and frequency of compiling statistics for wages and hours of work in the mining, industrial manufacturing and agricultural sectors. It is, however, considered to be in need of revision in the light of changing concepts in statistics in the four decades since its adoption.

Canadian Position

Canada ratified the Convention in 1946.

CONVENTION 144: TRIPARTITE CONSULTATION (INTERNATIONAL LABOUR STANDARDS) (Adopted in 1975; ratified by 4 States as of January 1, 1978)

Main Provisions

The Convention enjoins Member States to introduce procedures to ensure effective consultation with representatives of employers' and workers' organizations on ILO matters. The competent authority shall be responsible for administrative support and shall share with the representative organizations the financing of the training of the participants. The consultative body shall deal with all ILO matters, including replies to questionnaires and comments on proposed texts of instruments; proposals regarding new instruments; consideration of unratified Conventions and Recommendations; implementation of ratified Conventions; etc. The consultative body shall meet at least annually, and shall, where appropriate, issue an annual report.

Canadian Position

Although tripartite consultative machinery exists at federal and provincial levels, none deals specifically with ILO matters, except the Quebec Advisory Council on Labour and Manpower. A tripartite meeting in September 1975, attended by the federal and four provincial Deputy Ministers of Labour, as well as five representatives each of employers' and workers' organizations, favoured the formation of a similarly constituted permanent committee to deal specifically with ILO questions. The matter is under consideration.

Chapter VII: Seafarers, Fishermen and Dockers

In view of the international character of the mercantile marine, this industry has received a great deal of attention from the ILO. Originally, the seamen's associations asked the Commission of International Labour Legislation established under the 1919 Peace Treaties to set up a special body to deal with maritime questions. Although this was not done, special sessions of the International Labour Conference have been devoted exclusively to the affairs of seafarers, and so far 32 Conventions have been adopted for seafarers alone (excluding those specifically for fishermen and dockers), of which 18 are still reasonably up to date. Generally speaking, the subject matter of the Conventions falls in the federal jurisdiction; labour relations on intraprovincial navigation come within provincial jurisdiction, but this represents a very small proportion of the total Canadian navigation. The main areas covered by the Conventions relate to conditions for admission to employment, certificates of competency, general conditions of employment, safety, health and welfare, and social security.

Conditions for Admission to Employment. Six Conventions laying down conditions for admission to employment, such as articles of agreement (No. 22), minimum age (Nos. 7, 15 and 58), medical examination of young persons (No. 16), and general medical examinations (No. 73), have been ratified by the Canadian Government. The Minimum Age (Sea) (No. 7), the Minimum Age (Trimmers and Stokers) (No. 15) and the Minimum Age for Employment at Sea (No. 58) were all ratified by Canada, but have been superseded by a more comprehensive instrument, namely the Minimum Age for Employment Convention (No. 138), which is dealt with in Chapter IV[1]. The Seafarers' Identity Documents Convention (No. 108), regulating the issue of appropriate identity documents, has also been ratified.

Certificates of Competency. Of the three Conventions on this subject, Canada has ratified two: the Certification of Able Seamen (No. 74) and of Ships' Cooks (No. 69). To achieve full compliance with the Officers' Competency Certificates Convention (No. 53), an amendment to the Canada Shipping Act would be necessary.

General Conditions of Employment. Of the eight Conventions dealing with general conditions of employment, three have been superseded by the Wages, Hours of Work, and Manning (Sea) (Revised) Convention (No. 109), adopted in 1958. This establishes standards relating to pay, hours and manning provisions, and Canada has achieved a considerable degree of compliance; full compliance would merely require establishment of a dispute-settling mechanism and certain provisions regarding overtime and day of rest. Two Conventions adopted in 1976, one dealing with Continuity of Employment (No. 145) and the other a compendium Convention (No. 147) seeking to lay down minimum standards in various areas of employment conditions, are under consideration.

---

[1]See p. 45 above.

Three Conventions relating to paid vacations have been superseded by the Seafarers' Annual Leave with Pay Convention (No. 146), adopted in 1976. To comply with this Convention would require an extension of the present vacation period allowed under the Canada Labour Code, as well as introduction of conditions appropriate to seafarers' circumstances.

To comply with the Repatriation of Seamen Convention (No. 23), adopted in 1926, would require an amendment to the Canada Shipping Act requiring the shipowner to bear repatriation costs of a foreign seamen engaged and discharged outside of Canada.

Safety, Health and Welfare. Accommodation of crews is covered by three Conventions, two for seamen (Nos. 92 and 133) and one for fishermen (No. 126). The Conventions lay down specifications for crew accommodation. The Canadian Crew Accommodation Regulations do not come up to the established standards, although these Regulations are supplemented by Transport Canada Recommendations which are widely accepted. Discussion with the industry would be necessary as a prelude to ratification.

The Medical Examination (Seafarers) Convention (No. 73), which has been ratified by Canada, and which subsumes the Medical Examination of Young Persons (Sea) Convention (No. 16), also ratified by Canada, requires the production of a medical certificate of fitness, as a condition of employment on any vessel covered by the Convention.

The Prevention of Accidents (Seafarers) Convention (No. 134), adopted in 1970, lays down standards relating to accident prevention. In order to comply, Transport Canada would have to improve its accident research and statistics facilities (although much work is done by the provincial workers' compensation authorities) and to exercise its authority under the Canada Shipping Act to make additional regulations.

Social Security. The Shipowner Liability (Sick and Injured Seamen) Convention (No. 55), adopted in 1936, establishes the shipowners' liability for sickness, injury or death, including repatriation expenses. To comply fully with this Convention would require amendments to the Canada Shipping Act, for which exploratory discussions between the departments concerned, would be a prerequisite.

The Unemployment Indemnity (Shipwreck) Convention (No. 8), adopted in 1920, which requires the payment to a shipwrecked seaman of indemnity against unemployment, has been ratified by Canada.

Fishermen. The Conventions relating to fishermen deal with medical examinations, articles of agreement and competency certificates. The Medical Examinations (Fishermen) Convention (No. 113), adopted in 1959, lays down the need for appropriate medical examinations. The Fishermen's Articles of Agreement Convention (No. 114), adopted in 1959, lays down the need for conditions of employment of fishermen to be set out in articles of agreement. In order to comply with both these Conventions the provisions of the Canada Shipping Act and Regulations would have to be amended to apply to fishing vessels.

The Fishermen's Compentency Certificates Convention (No. 125) specifies the need for certificated fishermen in the senior officer positions. Steps are being taken by the Canadian Government which should lead toward achieving compliance with the Convention.

Dock Workers. The Dock Work Convention (No. 137) deals with the social repercussions arising from the new methods of cargo handling in docks. This is an area primarily covered by collective agreements, and ratification will be dependent upon consultations with employees and employers' associations.

Summary. Of the 26 Conventions ratified by Canada as at January 1, 1978, nine related to seafarers. There were 32 ILO Conventions dealing with seafarers, but several of those which Canada did not ratify have subsequently been revised or subsumed in another Convention. Of the 18 relevant Conventions, seven have been ratified. Further action is necessary in the areas of officers' competency requirements, employment standards at sea, paid vacations, repatriation costs of foreign seamen, crew accommodation requirements, improvement of Transport Canada's accident research facilities, and establishment of the shipowners' social security liabilities. For the fishermen's Conventions, steps are needed to extend to fishermen the provisions of the Canada Shipping Act dealing with medical examinations, articles of agreement for fishermen, and competency certificates for senior officers. Ratification of the Dock Work Convention would be subject to consultations with the unions' and employers' associations.

CONVENTION 8: UNEMPLOYMENT INDEMNITY (SHIPWRECK)
(Adopted 1920; ratified by 43 States as of January 1, 1978 (including Canada, 1926))

Main Provisions

The objective of the Convention is to indemnify seamen for unemployment incurred in the loss or foundering of their vessel. The definition of "seamen" includes "all persons employed on any vessel engaged in maritime navigation" and "vessel" embraces all ships and boats of any nature whether public or private involved in maritime navigation, except ships of war. For the period of unemployment, compensation shall be paid at the same rate as wages payable under the contract but may be limited to two months' wages. The same remedies shall be available for the recovery of the indemnity as for arrears of wages.

Canadian Position

Canada ratified the Convention in 1926.

CONVENTION 22: SEAMEN'S ARTICLES OF AGREEMENT
(Adopted 1926; ratified by 47 States as of January 1, 1978 (including Canada, 1938))

Main Provisions

This Convention applies to seamen employed on any ship engaged in navigation, registered in the ratifying State, whether privately or publicly owned, excluding ships of war, non-trading government vessels, coastal traders, pleasure yachts, Indian country craft, fishing boats and any vessel less than 100 tons and 300 cubic metres. "Seamen" includes all persons engaged on a vessel and entered on the ship's articles except masters, pilots, cadets, pupils, apprentices and permanent government employees.

Both the shipowner or his representatives and the seaman must sign the articles of agreement whose conditions shall be according to national laws and certified by the competent authority; and the parties shall be accorded reasonable facilities for examination. The content of such articles shall not be inconsistent with the Convention nor national law nor deviate from norms established by a previously concluded contract except for exclusionary clauses concerning arbitration. National law shall prescribe how the seaman is to be apprised of the arrangement's provisions and his comprehension guaranteed.

The agreement may be valid for a fixed period or for the duration of the voyage and should contain such particulars as: the seaman's names and surname, place and date of birth, place and date of the agreement's conclusion, the name of the vessel, the voyage(s) to be undertaken, the capacity of employment, the beginning and termination of the seaman's duties, the amount of wages and annual leave.

An agreement for an indefinite period may be terminated at any port of loading or unloading, on the notice from either party as specified in the agreement. Agreements entered into for a voyage can be terminated by the parties' mutual consent, death of the seaman, loss or total unseaworthiness of the vessel, or by other provisions in accordance with national law or the Convention. The conditions for discharge of seamen, whether voluntarily or involuntarily, are determined by national laws.

Canadian Position

Canada ratified the Convention in 1938.

CONVENTION 23: REPATRIATION OF SEAMEN
(Adopted in 1926; ratified by 31 States as of January 1, 1978)

Main Provisions

The Convention provides for the repatriation of seamen employed in applicable ships. Any seaman who is landed during his term of engagement is entitled to be returned to his own country, or the port at which he was engaged or to the port at which the voyage commenced as determined by national law. The repatriation of a foreign seaman who is engaged in a country other than his own depends on the provisions of national law, or in the absence of such legal provisions, on the provisions of the articles of agreement signed by the foreign seaman. A seaman shall be deemed to have been duly repatriated if he has been provided with suitable employment on board a vessel proceeding to one of the prescribed destinations. The expenses of repatriation shall not be charged to the seaman if he is left behind by reason of injury sustained in the service of the vessel, or shipwreck or illness not due to his own wilful act or default or is discharged for any cause for which he cannot be held responsible.

Canadian Position

The provisions of the Canada Shipping Act do not, in the case of a foreign seaman engaged in a Canadian ship at a port out of Canada and discharged at a port out of Canada, require the ship to bear repatriation costs regardless of the reason for discharge. To achieve full compliance would require the revoking of subsection 281(3) of the Canada Shipping Act.

CONVENTION 27: MARKING OF WEIGHT (PACKAGES TRANSPORTED BY VESSELS)
(Adopted in 1929; ratified by 55 States, as of January 1, 1978 (including Canada, 1938))

Main Provisions

The Convention directs that any package or object of 1,000 kilograms (1 metric ton) transported by sea or inland waterway, shall have its gross weight plainly and durably marked on the outside prior to loading. This obligation rests solely upon the government of the consignor country and not on the governments through which the cargo passes during transit.

Canadian Position

Canada ratified the Convention in 1938.

CONVENTION 32: PROTECTION AGAINST ACCIDENTS (DOCKERS) (REVISED)
(Adopted 1932; ratified by 38 States as of January 1, 1978 (including Canada, 1946))

Main Provisions

The Convention applies to any person employed in the on-board and on-shore loading and the unloading of ships engaged either in maritime or inland navigation, excluding ships of war. It establishes safety procedures relating to the approaches to docks, wharves, and quays; potentially dangerous areas; access from ship to water; means of linking lower areas with the decks; hatch coverings; hoisting machines, the operation of lifting or transporting machinery; dangerous aspects of the loading and unloading processes; etc.

National laws and regulations shall prescribe the necessary precautions to ensure proper protection of workers in dealing with goods of a nature dangerous to life and health; and shall stipulate the permanent and ready availability of first-aid services.

The Convention shall apply to any ships constructed in the ratifying State, and there shall be reciprocal arrangements with other Members on the basis of the Convention.

Canadian Position

Canada ratified the Convention in 1946.

CONVENTION 53: OFFICERS' COMPETENCY CERTIFICATES
(Adopted in 1936; ratified by 25 States as of January 1, 1978)

Main Provisions

The purpose of the Convention is to establish minimum standards of competency for ships' officers in terms of certificates, minimum age and professional experience, as a prerequisite to being engaged. National laws or regulations should provide for suitable examination systems, as well as for detaining ships, where necessary, and prescribing penalties or disciplinary action for shipowners or officers not respecting the provisions, or for obtaining fraudulent or forged documents.

Canadian Position

Substantial compliance with the Convention is achieved through the Canada Shipping Act and Regulations in providing for adequate competency certificates, detention of ships on account of breaching the certification requirements and prosecution of persons suspected of fraudulent practices.

To comply fully, it would be necessary to amend the Canada Shipping Act to ensure that all watch-keeping officers will be certificated.

CONVENTION 55: SHIPOWNERS' LIABILITY (SICK & INJURED SEAMEN)
(Adopted in 1936; ratified by 13 States as of January 1, 1977)

Main Provisions

The Convention lays down the liability of shipowners for sickness, injury or death of employees aboard ship, and specifies the medical care they must provide, as well as their liabilities regarding payment of wages, on board and on shore, repatriation expenses, and for the protection of the employee's property.

Canadian Position

The Canada Shipping Act specifies the shipowner's liability for the "expense of providing necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the hurt or injured person until he is cured or dies, or is returned to a proper port, and of his conveyance to the port, and in the case of death, the expense, if any, of his burial." It also lays down conditions for relief and repatriation of distressed seamen, stipulating particularly that in the case of a seaman shipped in Canada, the return port shall be in the same province in which he was shipped unless otherwise agreed to by him.

To comply fully, provision would be needed stipulating the shipowner's liability to pay:

(a) medical care and maintenance expenses for a 16-week period, or until the sickness or incapacity has been declared of a permanent nature;

(b) wages in whole or in part as prescribed by national laws and regulations until the seaman has been cured, or the sickness or incapacity has been declared of a permanent nature;

(c) wages in whole or in part in respect of a prson no longer on board for a period of not less than 16 weeks from the day of the injury or the commencement of the sickness.

CONVENTION 68: FOOD AND CATERING (SHIPS' CREWS)
(Adopted 1946; ratified by 19 States as of January 1, 1978 (including Canada, 1951))

Main Provisions

A ratifying member undertakes to promote proper standards of food supply and catering services for the crew of sea-going vessels, engaged in trade or the transport of freight or passengers, whether publicly or privately owned.

The competent authority, through national laws, regulations and collective agreements, shall undertake the following functions: the inspection and maintenance of food and water supplies, the construction, ventilation, heating, lighting, water provision and equipment of food handling areas, including storerooms and refrigerators, and the certification of members of the catering staff.

The competent authority shall conduct inspections to investigate complaints and make appropriate recommendations. In addition, the responsible body shall compile annual reports, offer training and refresher courses and provide up-to-date information on nutrition and the processing and serving of food to those involved in maritime catering facilities. If necessary, the relevant authority may delegate the certification of personnel and the distribution of information to a central organization.

Canadian Position

Canada ratified the Convention in 1957.

CONVENTION 69: CERTIFICATION OF SHIPS' COOKS
(Adopted 1946; ratified by 23 States as of January 1, 1978 (including Canada, 1951))

Main Provisions

The Convention prohibits the engagement of a ship's cook, i.e., any "person" directly responsible for the preparation of meals for a crew, without the necessary certificate of qualification. It applies to any privately or publicly owned sea-going vessel engaged in trade and the transport of cargo or passengers and registered in the ratifying country.

Standards for certification should establish a minimum age and a minimum period of service at sea, as well as including a practical test and evidence of knowledge of food values. Exemptions from these conditions are permitted in the event of an inadequate supply of cooks or where a cook has had two years of experience in the interim three-year period between ratification and the entering into force of the Convention.

Canadian Position

Canada ratified the Convention in 1957.

CONVENTION 73: MEDICAL EXAMINATION (SEAFARERS)
(Adopted 1946; ratified by 26 States as of January 1, 1978, (including Canada, 1951))

Main Provisions

No person to whom the Convention applies shall be employed on a vessel covered by the Convention unless he produces a medically signed certificate attesting to his fitness for the assignment, which will include the passing of a prescribed hearing and vision test and an examination for diseases which would render him unfit for service. If refused a certificate, he can reapply for an examination by independent medical referees.

The Convention applies to all publicly or privately owned vessels engaged in trade and transport of cargo or passengers, registered in the ratifying country, except vessels of less than 200 tons gross registered tonnage, dhows, junks, fishing boats and estuarial craft. It applies to every person engaged on board a vessel except a pilot, persons employed by a party other than a shipowner, radio officers or operators from a telegraph company, travelling longshoremen and port workers who are non-crew members not ordinarily employed at sea.

The Convention also makes provision for the competent authority to delegate its functions to organizations of shipowners and seafarers.

Canadian Position

Canada ratified the Convention in 1951.

CONVENTION 74: CERTIFICATION OF ABLE SEAMEN
(Adopted 1946; ratified by 20 States as of January 1, 1978 (including Canada, 1951))

Main Provisions

Engagement as an able seaman necessitates the competence, according to national laws or regulations, to perform any duty required of a crew member and the holding of a certificate of qualification.

The competent authority shall organize examinations and grant certificates only to those who have attained a prescribed minimum age not under 18 years, served for a stipulated minimum period of not less than 36 months, and passed a proficiency examination. The qualifying period may be reduced to 24 months for a trainee of an approved school, or to 18 months in the event of practical experience on board ship. The examination shall consist of a practical test of a candidate's seamanship, and ability to perform required duties, including those of a lifeboatman.

The ratifying state may grant certificates to able seamen engaged in the territory concerned at the time of the Convention coming into force, and may allow for the recognition of certificates of qualification issued by other states.

Canadian Position

Canada ratified the Convention in 1951.

CONVENTION 92: ACCOMMODATION OF CREWS (REVISED)
(Adopted in 1949; ratified by 28 States as of January 1, 1978)

CONVENTION 126: ACCOMMODATION OF CREWS (FISHERMEN)
(Adopted in 1966; ratified by 11 States as of January 1, 1978)

CONVENTION 133: ACCOMMODATION OF CREWS (SUPPLEMENTARY PROVISIONS)
(Adopted in 1970; ratified by 11 States as of January 1, 1978)

Main Provisions

The Conventions lay down standards for crew accommodation, giving detailed specifications concerning such matters as sleeping accommodation, mess and recreation rooms, ventilation, heating, lighting and sanitary facilities on board ship.

Convention 92 applies to ships of 500 tons and over, and to vessels between 200 and 500 tons, where reasonable and practicable, but does not apply to fishing vessels and tugs. Convention 133 applies to ships of 1,000 tons and over with certain exemptions and, where reasonable and practicable, to ships between 200 and 1,000 tons, gross tonnage. Provision is made for varying, but not diminishing, the requirements in any ship where the competent authority is satisfied, after consultation with appropriate organizations of employers and employees.

Convention 126 applies to vessels over 80 feet in length and to ships and boats between 45 feet and 80 feet in length where the competent authority determines, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, that this is reasonable and practicable.

Canadian Position

The Canadian Crew Accommodation Regulations apply to every ship required to be registered under the Act other than a fishing vessel or a pleasure yacht or a ship that is used for pulling or pushing any floating object. Flexibility is provided, at the discretion of the Board, to cover situations encountered with Canadian ships. The Crew Accommodation Recommendations which contain the technical standards are suggested as desirable in complying with the intent of the Crew Accommodation Regulations.

Regulations were promulgated in 1972 for ships of more than five tons, gross tonnage used for towing.

In general, Canada's Crew Accommodation Regulations and Recommendations do not come up to the standards established in Conventions 92 and 133, but are more flexible in dealing with the Canadian situation.

At present there are no crew accommodation regulations in effect for Canadian fishing vessels and, while most of the newer vessels over 80 feet in length could meet the Convention requirements, many of the older side trawlers could not comply.

To comply with Conventions 92 and 133 would require changes to the Regulations, and to set standards for the accommodation in fishing vessels would require the introduction of a new set of regulations.

CONVENTION 108: SEAFARERS' IDENTITY DOCUMENTS
(Adopted in 1958; ratified by 36 States as of January 1, 1978 (including Canada, 1967))

Main Provisions

Under the Convention, each ratifying membr is to issue to its national seamen a seafarer's identity document or a passport indicating the bearer's vocation. The term "seafarer" includes all persons engaged in any capacity on board a vessel other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation or, where doubt arises, as determined by the competent authority in consultation with shipowners' and seafarers' organizations. The seafarer's identity document shall remain in the bearer's possession at all times. Subject to national laws or regulations, the document shall contain the following particulars: the seafarer's full name, date and place of birth, nationality, physical characteristics, photograph, signature or thumbprint, the title of the issuing organization, and the expiry date. Additional entries indicating transferral, transit, repatriation, and other details shall be allowed on the document. The holder of a valid seafarer's identity document issued by the territory to which he is returning shall be readmitted up to one year after expiration of the document.

Canadian Position

Canada ratified the Convention in 1967.

CONVENTION 109: WAGES, HOURS OF WORK, AND MANNING (SEA) (REVISED)
(Adopted in 1958; ratified by 8 States as of January 1, 1978)

Main Provisions

The Convention establishes minimum rates of pay for able seamen, maximum hours at sea and in port, and the need for regulation of the number of hours worked at sea on a day of rest and of compensation for this, as well as for overtime. It also calls for a sufficient number of officers and men to be engaged in ships so as to ensure the avoidance of excessive overtime and to satisfy the dictates of safety of life at sea; and for efficient machinery for the investigation and settlement of complaints or disputes concerning the manning of ships.

Canadian Position

Minimum rates of pay and hours of work are controlled by legislation and are compatible with the Convention. Canada Shipping Act, section 397, requires every steamship registered in Canada to be manned with a crew which is sufficient and efficient from the point of view of safety of life for the duration of a voyage. The Safe Manning Regulations prescribe hours of rest, the composition of the watch, minimum complement, responsibility of owners and masters and the enforcement of these regulations. The regulations also prescribe the machinery for complaints made by a member of the ship's complement to a Canadian steamship inspector.

To comply fully, would require the establishment of a mechanism for settling disputes which would include representatives of employees' and employers' organizations. Provisions for overtime or for work at sea on a day of rest are also needed.

CONVENTION 112: MINIMUM AGE (FISHERMEN)
(Adopted in 1959; ratified by 31 States as of January 1, 1978)

Main Provisions

The Convention prohibits the employment of children under 15 years on fishing vessels, i.e., all ships and boats, engaged in maritime salt-water fishing, whether publicly or privately owned. Fishing in ports, harbours and river estuaries, and individual fishing for sport and recreation, are excluded.

During school holidays, under-age children may participate on fishing vessels provided their activities are not harmful to their health or normal development, prejudicial to school attendance, nor intended for commercial profit. Children of not less than 14 years can be issued certificates where an appropriate authority is satisfied that such work would benefit the child. Children under 18 shall not work as trimmers or stokers on coal-burning vessels. These prohibitions shall not apply to work done by children on school or training ships, provided it is approved and supervised by a public authority.

Canadian Position

This Convention has been superseded by the Minimum Age for Employment Convention (No. 138), and would require similar measures to achieve compliance.[1]

CONVENTION 113: MEDICAL EXAMINATION (FISHERMEN)
(Adopted in 1959; ratified by 20 States as of January 1, 1978)

Main Provisions

This Convention prohibits a person from being engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea, signed by a medical practitioner approved by a competent authority. The medical certificate shall attest that the person is not suffering from any disease likely to be aggravated by, or render him unfit for, service at sea, or likely to endanger the health of other persons on board. Exemptions are permitted in respect of vessels which do not normally remain at sea for periods of more than three days. The Convention does not apply to fishing in ports and harbours or in estuaries of rivers or to individuals fishing for sport or recreation. The Convention authorizes a fisherman who has been refused a certificate, to apply for a further examination by a medical referee or referees who shall be independent of any fishing boat owner or of any organizations.

Canadian Position

There is no provision implementing this Convention in the Canada Shipping Act, and the Medical Examination of Seafarers Regulations specifically exclude fishing vessels.

To comply would require suitable amendments to the CSA and Regulations. Provision of suitable local arrangements for implementing the regulations across the country may require active industry involvement.

CONVENTION 114: FISHERMEN'S ARTICLES OF AGREEMENT
(Adopted in 1959; ratified by 18 States as of January 1, 1978)

Main Provisions

The Convention provides for conditions of employment of seafarers on fishing vessels to be set out in the form of Articles of Agreement with recognition being given to collective agreements where they exist, and for the exemption of vessels of a type agreed upon nationally. The minimum information required in such Articles is also specified in the Convention.

---

[1]See above, p. 45.

Canadian Position

Present legislation provides for Articles of Agreement on board all Canadian vessels over a certain tonnage, and details the information to be entered upon them and other matters respecting their completion. The provisions of the Act are compatible with the Convention but have not been applied to fishing vessels on account of the isolated nature of many fishing bases, lack of suitable shipping masters' offices and general opposition from the fishing industry.

Application of the Act's provisions would be necessary with concurrent provision of adequate shipping masters' services in many additional ports. Alternatively, a further dispensation of departmental control over seamen's engagement, de-emphasizing the shipping master's role and substituting ships' responsibility would be required. In either case, discussions with the industry are a prerequisite.

CONVENTION 125: FISHERMEN'S COMPETENCY CERTIFICATES
(Adopted in 1966; ratified by 8 States as of January 1, 1978)

Main Provisions

The Convention outlines the requirements for certified skippers, mates and engineers operating vessels engaged in an offshore fishery. It also outlines the minimum age and experience required of fishermen for each of the three officer positions and sets out in detail the curriculum required for each certificate.

Canadian Position

Sections 112 and 115, Part II of the Canada Shipping Act, comply with the requirements of this Convention for fishing vessels of 100 tons gross and over.

The certification of fishing masters (skippers), mates and engineers is a recent Canadian regulatory requirement. The Canadian Government is presently engaged in an examination program designed to bring the standards required for fishing masters (skippers) and mates up to the level outlined in the Convention. This program will be completed in 1978. The requirements applicable to engineers prescribed in the Canada Shipping Act and the Marine Engineer Examinations Regulations are, however, generally in compliance with the Convention. Several exceptions could be eliminated by amendments to the Examinations Regulations.

Upon the full implementation of the fishing masters (skippers), mates and engineering certification program, the Canada Shipping Act will require amending to include the requirements for certificated fishing masters (skippers) in vessels of 25 gross registered tons and over engaged in fishing in salt waters.

CONVENTION 134: PREVENTION OF ACCIDENTS (SEAFARERS)
(Adopted in 1970; ratified by 12 States as of January 1, 1978)

Main Provisions

The Convention provides for the competent authorities to take the necessary measures to ensure reporting, investigation and analysis of occupational accidents; for research into occupational accidents; for the publishing of laws or codes for prevention of accidents; for the setting up of adequate inspection services; for the appointment of a ships' accident prevention officer or committee; for the setting up of accident prevention programs in which the Administration, the owners' and the seafarers' organizations play an active part; for appropriate training and examination in safety subjects as part of certificate requirements and for means of advising seafarers of particular hazards.

Canada Position

Most of the provisions are met by the Canada Shipping Act. However, Transport Canada does not, at present, have the capability to maintain statistics or to undertake research into occupational accidents, although there is authority to undertake this work and considerable work is done in this area by the provincial workers' compensation authorities. Nor is there any requirement in present legislation to form accident prevention committees aboard ship nor for the accident prevention programs established by Transport Canada.

To comply, it would be necessary to make additional regulations under the CSA.

CONVENTION 137: DOCK WORK
(Adopted in 1973; ratified by 10 States as of January 1, 1978)

Main Provisions

The object of the Convention is to improve conditions of work and life of dockworkers by taking advantage of new methods of cargo handling to regularize employment and stabilize income. It postulates a national policy to assure dockworkers of minimum periods of employment or a minimum income according to the economic and social situation of the country and port concerned. It requires the keeping of registers for all categories of dockworkers, those registered to have priority of engagement and to be available in a manner determined by national law and practice. The strength of the registers has to be periodically reviewed, but any necessary reduction should be accompanied by ameliorative measures. Dockworkers shall be protected by required safety and health measures and enjoy welfare and vocational training facilities. The provisions shall be given effect by national laws or regulations or by collective agreements, arbitration awards, etc., and shall include measures to encourage co-operation between employers' and workers' organizations.

Canadian Position

While there is no legislation in Canada dealing specifically with the subject matter of the Convention, its objectives appear to be met in many, although not all, port areas through collective agreements and practice. However, there are a number of cases where the requirements of the Convention are not met and consequently the degree of compliance is not sufficient for ratification.

The possibility of ratifying in the future will depend on the development of practice in the major dock areas and on consultations with unions and employers to determine whether collective agreements provide a sufficiently firm basis for assuming the obligations that ratification would involve.

CONVENTION 145: CONTINUITY OF EMPLOYMENT (SEAFARERS)
(Adopted in 1976; ratified by 0 States as of January 1, 1978)

Main Provisions

Member States are enjoined to provide continuous or regular employment for qualified seafarers, and a stable and competent workforce for ship owners. Efforts should be made to ensure minimum periods of employment or a minimum income or monetary allowance. These might be achieved by contracts or agreements with the employers, or the establishment and maintenance of registers or lists. Where only the latter exist, the lists shall include all occupational categories, and those on the lists shall have priority but shall also be required to be available for work in a manner determined by national law or practice or by collective agreement. These lists shall be periodically reviewed, and where circumstances necessitate the reduction of their strength, appropriate measures shall be taken to minimize detrimental effects. Appropriate safety, health, welfare and vocational training provisions shall apply to seafarers.

Canadian Position

The implications of the Convention are still under study. Generally, for those seafarers who are organized in unions, the provisions of the Convention are met in their collective agreements. For the unorganized, the employment arrangements are more fluid. There are no regulations relating to the Convention, nor are any contemplated at this time.

CONVENTION 146: SEAFARERS' ANNUAL LEAVE WITH PAY
(Adopted in 1976; ratified by 0 States as of January 1, 1978)

Main Provisions

The Convention requires provisions, either by legislation or collective agreement, entitling all seafarers to a specified period of annual leave, which shall be not less than 30 calendar days for one year of service. Such leave shall not include public and customary holidays recognized by the country of the flag, periods of incapacity for work, temporary shore leave granted while on articles, and compensatory leave of any kind. The annual leave must be paid for in advance at the seafarer's normal remuneration, and must be paid pro rata to any seafarer who leaves or is discharged before taking his annual leave. The time at which leave is taken shall be fixed by the employer after consultation with the seaman or his representatives. It shall be granted at the place where he was engaged or recruited, whichever is nearer his home; failing this, free transportation shall be provided to this place and allowance made for travel time.

Canadian Position

The Convention, which revises the Paid Vacation (Seafarers) Convention (No. 91), is under consideration. The subject matter of the Labour Standards Regulations, which provide for all employees two weeks annual vacation for one year of service, and three weeks after five years of service. They also provide for other requirements such as the postponement of a year's vacation and the payment in lieu thereof in exceptional circumstances. Full compliance would require an extension of the leave period, as well as the special provisions indicated in the Convention.

CONVENTION 147: MERCHANT SHIPPING (MINIMUM STANDARDS)
(Adopted in 1976; ratified by 0 States as of January 1, 1978)

Main Provisions

The Convention reiterates the main provisions of several earlier Conventions and requires Member States to have laws or regulations laying down: safety, competency, hours of work and manning standards; appropriate social security measures; and conditions of employment and living arrangements in accordance with previous ILO Conventions, where these are not covered by collective agreement or other appropriate measures. There should be effective jurisdiction or control over ships to ensure the above standards are observed. There should also be adequate procedures for the engagement of seafarers on ships registered in the Member State's territory or for investigation of complaints arising in that connection; or for complaints of seafarers of its own nationality engaged in its territory on ships registered in a foreign country. Measures should exist for ensuring the proper qualification and training of seafarers, for the verification that ships registered in the

Member State's territory comply with the applicable ratified ILO Conventions and with the applicable laws and regulations required by those Conventions. An official enquiry should be held of any serious marine casualty involving ships registered in its territory. Member States, which have ratified the Convention, shall advise their nationals of possible problems of signing on a ship registered in a State which has not ratified the Convention. It shall also consider complaints concerning ships in its ports and prepare a report addressed to the government of the country in which the ship is registered, with a copy to the ILO, and take any measures necessary to rectify conditions hazardous to safety or health.

Canadian Position

The Convention is still under consideration, but it would appear that there is a considerable degree of compliance. Earlier Conventions relating to minimum age, medical examinations, food and catering, articles of agreement and freedom of association have been ratified; there is substantial compliance in the areas of accommodation, officers' competency certificates, repatriation of seamen and accident prevention; but further study will be necessary so far as shipowners' liability, and medical care and sickness benefits are concerned. Generally the unions would inform seamen of problems of signing on for ships of countries which have not ratified the Convention. Appropriate steps, in consultation with a representative of the flag State, would normally be taken in the event of hazardous conditions.

Chapter VIII: Summary

This document began with a quotation showing the benefits a worker would enjoy in a country that fully applied the International Labour Code. A summary of the extent to which Canadian workers enjoy these benefits is now appropriate.

In the field of basic rights, the Canadian worker is fortunate. He is protected against subjection to forced labour and enjoys freedom of association and the right to collective bargaining. These latter rights, however, are not completely universal and need to be extended in some provinces to farm workers and professional workers. The Canadian worker is protected against discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin, insofar as legislation can be effective in providing such protection. Similarly the principle of equal remuneration for men and women workers for work of equal value is recognized by all jurisdictions, with legislation aiming at its progressive implementation.

Canadian governments are committed to pursuing "an active policy designed to promote full, productive and freely chosen employment." Canadian workers are provided with a nation-wide free public employment service, and in periods of unemployment are eligible for training to equip them for new jobs. The majority of jurisdictions do exercise some form of control or supervision of fee-charging private employment agencies, although not the complete protection required by the International Labour Code. "Landed immigrant workers" enjoy full equality with Canadian citizens in the field of employment, are provided with the necessary pre-immigration services, and protection against abuses. Indigenous workers generally receive the special protection provided for in the Convention.

The Canadian worker enjoys all the types of social security laid down in the Code. However, unless supplemented by private schemes, he does not enjoy them all under the conditions laid down in the Conventions, particularly regarding benefits as a percentage of earnings.

All Canadian workers do not yet enjoy the forty-hour week, as provided in the ILO Code. All industrial workers enjoy one day of rest in seven, but in some provinces certain groups of commercial and office workers are not fully protected. There is little compliance with the standards laid down in the Conventions on holidays with pay and paid educational leave. In general, the Canadian worker is protected by minimum wage-fixing legislation and machinery, and is ensured full, prompt and unconditional payment of wages, although full compliance with the requirements of the Code in both areas is not achieved in all jurisdictions. There is considerable compliance with the ILO standard concerning minimum age for employment but less so with the requirement for protecting young persons against night work.

In the field of occupational safety and health, although there is considerable protection against the use of unguarded machinery, several of the provinces do not comply with the standard preventing workers from carrying unduly heavy loads. Most jurisdictions have only moderate compliance with the requirements to ensure adequate protection against radiation danger and benzene poisoning, and co-ordinated action on the part of federal and provincial authorities to provide adequate safeguards against occupational cancer are also necessary.

The special conditions of seafarers are provided for, to a considerable extent, but the maritime legislation needs in many instances to be extended to fishermen. All Conventions relating to conditions for admission to employment have been ratified. There is a high degree of compliance with the general conditions of employment, competency requirements and the safety and health Conventions, but only moderate compliance in the fields of crew accommodation and holidays with pay.

Appendix - The Role and Character of ILO Standard-setting

One of the main functions of the general conference of the ILO which meets annually in Geneva is to discuss and eventually adopt the Conventions and Recommendations, which have been prepared by and presented to it by the International Labour Office, on the basis of proposals made by the Governing Body. These Conventions and Recommendations (collectively referred to as instruments) embody standards which cover all aspects of the labour field, including general conditions of work for all workers or for particular types of workers (e.g., seamen, plantation workers, miners, etc.) social security, freedom of association, and protection against sex, racial, religious or other forms of discrimination.

When a Convention is adopted, Member States are encouraged to ratify it; this ratification binds the State to bring its legislation and practice in line with the standards laid down in the Convention. A Recommendation, on the other hand, is not binding on the Member States, does not have to be ratified, and merely gives guidance for action; usually it complements a Convention. Conventions and Recommendations are adopted by the International Labour Conference in plenary session with a two-thirds majority. Because they are not legally binding, Recommendations can be broader in scope than Conventions.

When a government ratifies a Convention, it must regularly report to the ILO any legislative or other action taken to implement it. Member States are also requested to report from time to time on some of the non-ratified Conventions and on Recommendations. Copies of these reports are sent to representative occupational organizations in the countries concerned for their comments. These reports and the comments on them are considered by the Committee of Experts on the Application of Conventions and Recommendations, which prepares a detailed report for the consideration of the Conference Committee on the Application of Conventions and Recommendations. Any State failing to report is mentioned by name in the Conference Committee's "General Report."

Representations that a Member State has failed to secure the effective observance of a Convention which it has ratified may be made by an employers' or workers' organization, or by another government. These representations are examined by a tripartite committee appointed by the Governing Body from amongst its members which will usually communicate each representation to the government concerned for comment. The Governing Body may then publish the representation and the government's comments, usually indicating whether or not the issues raised are being satisfactorily settled, or what further action is necessary. In the event of grave violations, the case could be referred to a Commission of Enquiry specially appointed by the Governing Body to deal with the complaint. The more serious cases of non-compliance are highlighted in a special list in the Conference Committee's General Report.

Special procedure exists for examining allegations of violation of trade union rights. The majority of such allegations are submitted by national or international trade union organizations and may be submitted whether or not the country concerned has ratified the Convention. They

are usually communicated to the government concerned, and together with the comments received in reply, examined by the Governing Body's Committee on Freedom of Association. In rare cases, where further information is required, they go to the Fact-Finding and Conciliation Commission on Freedom of Association.

Although the influence of ILO standards would be most easily measurable in terms of the number of ratified Conventions, this would be to underestimate such influence. In the first place, the process of regular annual meetings of government, employer and employee representatives to examine questions of topical interest in the social field gives a considerable degree of authority to the conclusions reached. Secondly, it makes the national policy-makers conscious of the questions which are raised, as well as providing a stimulus to the active groups within the national community. Numerous examples exist where legislation in a particular country has been influenced by ILO standards, even without the ratification of Conventions. In Canada, between 1970 and 1972, no fewer than 30 changes occurred in federal or provincial legislation following joint examination of ILO Conventions.[1] Furthermore, Conventions and Recommendations have formed the basis of policy statements of workers' organizations and have been invoked in negotiations with employers.

The establishing of international labour standards by means of Conventions and Recommendations is the best known activity of the ILO. Since the Second World War, however, greater emphasis has been placed upon technical aid and co-operation in order to meet the challenge laid down in the Declaration of Philadelphia that "poverty anywhere constitutes a danger to prosperity everywhere." Since that time, the ILO has extended its activities in the field of technical co-operation, always at the request of its Member States, usually in conjunction with them, and often with the other international agencies (such as the Food and Agricultural Organization, UNESCO, and the United Nations Development Programme - which is the main financing agency for UN technical aid).

This technical aid and co-operation is a complement to, rather than a substitute for, the standard-setting objectives of the ILO. If reasonable international labour standards are to be accepted on a world-wide basis, then the less affluent countries must receive economic and social aid in order to raise themselves to such a level that they can implement these standards.

---

[1] Record of Proceedings, International Labour Conference, 57th Session, Geneva, 1972, p. 254. The International Labour Review contains several articles on the influence of the ILO standards on various countries: Greece (June 1955); India (June 1956); Switzerland (June 1958); Nigeria (July 1960); Italy (June 1961); Norway (September 1964); Tunisa (March 1965); Poland (November 1965); Yugoslavia (November 1967); the United Kingdom (May 1968); Belgium (November 1968); Columbia (February 1969); France (April 1970); Ireland (July 1972); Cameroon (August-Sept. 1973); and the Federal Republic of Germany (December 1974).

The diversity of ILO activities can be seen from a study of the medium-term plan, 1976-81, as adopted by the Governing Body of the ILO in early 1976. The plan concentrates the Organization's activities on five major themes: namely, "Mass poverty, employment and training" (which includes employment promotion, skill development and income distribution); "Working conditions and environment;" "Tripartism, industrial relations and participation;" Planning, performance and evaluation of social security;" and "Fundamental human rights." The aim of the plan is to carry out development work, mainly through research and meetings, that would enable the ILO to improve its technical co-operative, standard-setting and dissemination of information, and thus have a greater impact on social policy throughout the world.

The implementation of the medium-term plan does not mean an interference or impairment of the standard-setting function of the Organization. In fact, as the plan states, "International labour standards should be important instruments for helping Member States to fix their objectives and for drawing up programs to attain them." A study of the extent to which these standards are implemented in the Member States is, therefore, a very important research tool in assessing progress made in the achievement of the plan's objectives. In modern parlance, they fill the role of "social indicators."